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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91219616
Party	Plaintiff Prudential Insurance Company of America
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In Re: Application Serial No. 86/184,144
For the Mark: ROCK SOLID INVESTMENT
Filed: February 4, 2014
Published in the Official Gazette: August 5, 2014

The Prudential Insurance Company of America)	
)	
Opposer)	
)	
v.)	Opp. No. 91-219,616
)	
Daryl Bank)	
)	
Applicant)	
)	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

OPPOSER’S REPLY IN FURTHER SUPPORT OF ITS MOTION FOR SANCTIONS

Opposer The Prudential Insurance Company of America (“Opposer”) respectfully submits this Reply in further support of its Motion for Sanctions and to address the arguments raised in Applicant Daryl Bank’s (“Applicant”) Response.

Opposer understands this situation presents the Board with a highly unusual set of facts. Opposer has advanced compelling evidence of serious crimes committed to obstruct discovery in this case, amongst other discovery abuses. Applicant’s egregious behavior in this proceeding is so far beyond any violations that Opposer’s research has located in any other trademark matter that any sanction short of judgment against Applicant would be unfair to Opposer.

Nothing in Applicant’s Response refutes the following facts. When Opposer’s process server was attempting to serve routine discovery documents on Applicant, Applicant pulled a

gun on her. She was wearing a badge at the time. After a thorough investigation, the Port St. Lucie, Florida Police Department determined Opposer's process server was acting lawfully within her official capacity. Applicant was charged with three separate felonies: Aggravated Assault, Assault on a Person 65 or older (she was 68 at the time) and Resisting Officer with Violence to her Person. Applicant has denied none of these facts.

Instead, Applicant claims to have been justified in assaulting the process server and asks the Board to believe: (1) he and his family were the victims, despite his arrest; (2) Opposer's seasoned process server assaulted his son, an allegation he never mentioned to the police; (3) Applicant is more credible in light of Opposer's alleged prior wrongs in decades-old, unrelated legal actions; and (4) Applicant's conduct in discovery has at all times been exemplary. Applicant, however, provides no admissible evidence to support these allegations. Moreover, his fictional account of these events demonstrates contempt for these proceedings and the Board's intellect. A review of the record demonstrates that Applicant's position on all four is meritless.

Based on Opposer's research, this case presents the Board with the most outrageous behavior exhibited in a trademark opposition proceeding. No one—especially a 68-year old officer of the court—should be put in fear for her life for simply doing her job. Opposer, therefore, respectfully submits that Applicant's misconduct warrants the harshest sanction available—entry of judgment against Applicant.

I. APPLICANT HAS SUBMITTED NO ACTUAL EVIDENCE TO SUPPORT HIS STORY, WHICH ALSO DIRECTLY CONTRADICTS THE POLICE DEPARTMENT'S INVESTIGATION

The Board can (and should) disregard Applicant's story in its entirety because he failed to provide any affidavit or declaration to support his version of events, only unsupported attorney argument. If the Board elects to even consider Applicant's story, it will discover not only the facts that led the police to conclude he was lying, but it will find new fictions, including one that

is simply revolting. Indeed, after pulling a gun on Ms. Gillings, Bank now accuses her of assaulting his ten year old son; *an accusation he never told the police despite talking with officers at least twice after the incident.*

A full account of the police evidence shows the many reasons why the police determined Applicant was not telling the truth or cooperating with them and why he was charged with three felonies. Indeed, Officer Alan Ludmerer's Warrant Affidavit, in addition to demonstrating many inconsistencies with Applicant's story and behavior, reveals some of the most telling aspects of the incident. *See* Opposer's Motion ("Motion"), Exhibit R. For example, it highlights the individual who first called the police after the incident, *i.e.*, Ms. Gillings, the process server. *Id.*, at 2. She immediately called 911 after the incident. *Id.* Applicant never called 911. *Id.* He did so only after the police attempted to contact him first. *Id.* Bank first refused to leave a call back number. *Id.* And, when he finally called back, he refused to meet with the police in person. *Id.*

Another telling admission from the Officer Ludmerer's Warrant Affidavit is that while on the phone with the police, Applicant indicated that he left home shortly after the incident occurred. *Id.* This behavior is startling given that in his response, Applicant alleges that *Ms. Gillings burglarized his home and assaulted his ten year old son.* *See* Response, pp. 2-3. This begs the questions—if Applicant were the victim of crimes against him and his child, why leave the scene? And why not immediately contact the authorities?

When he did return the police officer's phone call, Applicant accused Ms. Gillings of "breaking and entering" and wanted a report saying so "via instructions from his lawyer." Motion, Exhibit R, p. 2. The officer asked to come to Applicant's home; Applicant refused. *Id.*

Applicant Bank then told the officer he had photographic evidence showing Ms. Gillings illegally entered his home. *Id.* When the officer asked to come to Bank's home to see the evidence, Bank refused again. *Id.*

The day after the incident, Applicant Bank did agree to let the officers come to his house and gave his account of the incident. *Id.* He claimed that he already had his gun in his hand when he first saw Ms. Gillings. *Id.* He admitted that he saw her throw the papers into the house and heard her shout "You have been served!" *Id.* He claimed, however, that this put him "in fear for his life," so he pointed the gun at her. *Id.* She turned and left, but he continued to pursue her outside the home with the gun in his hand. *Id.* The officer specifically noted that "Mr. Bank did not call 911 dispatch despite being in fear for his life." *Id.*

Applicant also gave the officer 18 still photographs from a camera installed in his doorbell. *Id.* Applicant also indicated that there *had been* video, but that it was erased by the time the police met with him. *Id.* This meeting with the police took place the very next day after the incident.

Despite having 18 photographs, Applicant's Response provides the Board with only 8 of them. Applicant Bank conveniently failed to provide the Board with the following photographs:

Pictures 10-12 shows Mr. Bank exiting the front door with a firearm in his right hand.
Pictures 13-18 shows Mr. Bank returning back into the home with the weapon in his right hand.

Motion, Exhibit R, p. 3.

Applicant relies on the photos he did provide to try and conjure an awful fiction. He claims that Ms. Gillings "reached out and grabbed the young boy's arm as he tried to close the door, thereby committing battery on a minor child." Response, p. 3. Applicant also claims:

One can see from the images in Exhibit 1 that the process server unlawfully breeched the front and main entry of the Bank

residence and blocked Mr. Bank's son from shutting and locking the front door. One can also see a still shot of the lady reaching out to grab the boy's arm as well. The assertion that she merely reached inside the doorway into a courtyard is a falsehood.

Id., at 4. The Board should examine these images closely. In doing so, the Board will see exactly what the police saw: no boy; no assault; just a process server, doing her job, setting papers inside the door. It is telling that the police viewed these same photographs and charged Applicant, not Ms. Gillings, with criminal behavior.

In sum, Applicant's account is entirely inconsistent with his own admitted behavior at the time of the incident, Officer Ludmerer's findings and determinations in the Warrant Affidavit, and the photographic evidence. The Board should reject Applicant's fictional account, and hold him accountable for his actions of assaulting Ms. Gillings, falsely accusing her of assaulting a child, and trying to mislead the Board. Such extreme, bad faith behavior on the part of Applicant not only justifies, but necessitates the imposition of the sanction of judgment against him.

II. PRUDENTIAL'S HISTORY OF UNRELATED LEGAL MATTERS IS INADMISSIBLE AND IRRELEVANT

To distract from the crimes he has been charged with in the course of this proceeding, Applicant attacks Opposer's character by citing to a number of outdated and entirely unrelated legal matters involving Opposer. None of these allegations, however, are relevant or admissible, and they should be disregarded in their entirety.

The Federal Rules of Evidence ("FRE") apply to Board proceedings. *See* TBMP § 101.02; 37 CFR § 2.122(a). FRE 404(b)(1) provides that "[e]vidence of a crime, wrong, or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Here, Applicant is trying to do just that: introducing completely unrelated, resolved litigation or regulatory matters that Opposer was

involved in, some in the distant past, to infer that Opposer has somehow acted unlawfully in this proceeding. These arguments violate FRE 404, are entirely irrelevant, inadmissible, and should be disregarded.

III. APPLICANT MISREPRESENTS HIS CONDUCT DURING DISCOVERY

Applicant continues his misrepresentations by arguing that Opposer's description of his conduct during discovery is incorrect. In fact, Applicant asserts that he "has responded to all discovery requests, answered all of the questions asked of him at the deposition...and even responded to [Opposer's]...discovery deficiencies." Response, pp. 6-7. Once again, these assertions mischaracterize what has actually occurred throughout these proceedings.

A. Applicant Mischaracterizes His Conduct During His Deposition

Applicant's statement that he "answered all of the questions asked of him at the deposition" is disingenuous. Review of the transcript shows many, many instances where he refused to answer or was combative or evasive. *See* Exhibit S; excerpts of Applicant's deposition transcript. Applicant also elected to *start reading the newspaper while being questioned* during the deposition. *See* Motion, Exhibit I, 96:20-25. Such behavior may be comical at a ball game when the other team arrives, but is contemptible conduct for a testifying witness. Applicant's claim that he acted in good faith is false.

B. Applicant Mischaracterizes His Discovery Responses

Applicant's statement that he "responded to all discovery requests" is also false given that his "responses" were primarily improper objections. Applicant takes issue with Opposer's wording in certain discovery requests, claiming they are "overbroad and unduly burdensome." As an initial matter, Applicant has admitted that he has only been using the mark ROCK SOLID since February 2014. *See* Motion, Ex. F; Response to Interrogatory No. 8. It strains credulity to

assert that the effort involved in producing documents from that time until March 24, 2015 (the service date of his responses) could be “overbroad and unduly burdensome.” Before filing a motion to compel, however, Prudential sought to learn what this undue burden might be. Applicant simply could not articulate any specific answer:

Q. What burdens did you run into in terms of answering these questions?

A. These were generally overburdensome [sic].

Q. How so?

A. You want me to get specific?

Q. Yes.

A. You asked me a general question so I generally answered it. It’s generally overburdensome.

Q. For example, were there any of these requests that generated more than 1,000 documents when you tried to go search for something?

A. Which one are you talking about?

Q. I’m asking for any of them.

A. Generally, it was overburdensome.

Exhibit T, 71:23-72:23; excerpt from Bank’s deposition transcript. Case law provides, however, that in order to properly support a claim that a request is unduly burdensome, one must identify a specific burden. *See Global Ampersand, LLC v. Crown Eng’g & Constr., Inc.*, 261 F.R.D. 495, 499 (E.D. Cal. 2009) (The party who resists discovery “has the burden of clarifying, explaining, and supporting its objections.”). Thus, Applicant cannot validly claim that he had “multitude of legally appropriate objections” to Opposer’s discovery requests. *See* Response, p. 7.

Moreover, Applicant’s responses suggest he suffered no “burden” of any sort by searching *because he never conducted any search*:

Q. Did you do any search of your e-mails to answer any of the questions that were asked here?

A. I did whatever was asked of me.

Q. Specifically on Exhibit 3 in terms of answering these questions that are in Exhibit 3, do you recall doing any searches of electronic documents?

A. I did whatever the questions asked me to do and counsel directed me to do.

Q. I’m not asking you what instructions you think you were following I’m asking you did you do a search?

A. If that was the instructions in there, then I must have.

Q. You must have but you don't recall specifically doing a search?

A. I do a lot of things every day.

Exhibit T, 48:1-15; excerpt from Bank's deposition transcript.

Applicant also improperly objected on the basis of privilege for many of his responses. It is well established that federal courts require parties withholding privileged documents to provide a privilege log, describing the nature of the withheld documents in a manner that, without revealing privileged information, will enable other parties to assess the claim. *See e.g., Avgoustis v. Shinseki, Sec'y of Veterans Affairs*, 639 F.3d 1340, 1345 (Fed. Cir. 2011); *U.S. v. Phillip Morris, Inc.*, 347 F.3d 951, 954 (D.C. 2003); FRCP 26(b)(5)(A)(ii). In Applicant's responses to Opposer's Requests for Production Nos. 5, 6, 7, 8, 11, and 36, and Interrogatory No. 24, he responded as follows: "Object to the extent the request seeks information that is protected under attorney client privilege and/or attorney work product. Privilege log: attorney file." *See* Motion, Exhibit F. Only after Opposer objected to the absence of a privilege log, did Applicant provide any information. *See* Motion, Ex. H. While Applicant objected to seven discovery requests based on privilege, the log only identifies a single email. *Id.*

Applicant also withheld information claiming it was confidential and refused to provide additional information:

Q. *it says there's an objection there that it seeks confidential and proprietary information, do you see that?**

A. I see it.

Q. Are there any confidential, promotional materials that Dominion Diamonds distributes?

A. What's confidential?

Q. Exactly.

A. I'm asking you. You asked me the question so what do you mean by it?

Q. It's in your response so I'm asking does Dominion Diamonds distribute any confidential advertising materials?

A. You're asking to get into my proprietary information, so with respect to your question, yes it does.

Q. I didn't ask about proprietary information, I asked about confidential.

- A. It is confidential.
- Q. Let's talk about both of those things. Confidential is secret, proprietary means you own it.**
- A. That's your definition.
- Q. Let's talk about the secret stuff. Do you have any secret advertising materials?**
- A. I have confidential material that's none of your business, does that help?

Exhibit T, 60:21-61:21; excerpt from Bank's deposition transcript.

Applicant's behavior in assaulting Ms. Gillings, lying to the police and then lying to the Board certainly make his other discovery violations pale in comparison. However, the crimes should not distract the Board from considering his other egregious discovery misconduct. All of Applicant's bad behavior strongly supports the result Opposer requests.

IV. GRANTING JUDGMENT AGAINST APPLICANT IS IN LINE WITH PRECEDENT

In light of Applicant's clear egregious acts, granting judgment against him would not be contrary to Board precedent. To be certain, the Board has yet to decide on whether a party pulling a gun on a process server to avoid service is a sanctionable act and warrants entry of judgment. However, finding as much would not be unreasonable in view of the following cases wherein the Board entered judgment because of far less shocking acts than those of Applicant:

- Board entered judgment against a party who failed to provide responses to interrogatories after the Board ordered the party to provide such responses, *see Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 U.S.P.Q. 99 (Dec. 30, 1976);
- Board granting judgment for failure to produce documents after two motions to compel granted and due to pattern of changing counsel to evade discovery obligations, *see Unicut Corp. v. Unicut, Inc.*, Cancellation No. 12,644, 222 U.S.P.Q. 341 (Feb. 22, 1984);
- Board entered judgment against a party who failed to obey the Board's order on a motion to compel and instead of providing the requisite discovery responses, opted to send the

Board a “do or die letter” arguing the merits of its case and its perceived injustice, *see Wahl v. Fusco*, Cancellation No. 22,929, 39 U.S.P.Q.2d 1223 (Apr. 23, 1996);

- Board entered judgment against a party who filed numerous unnecessary motions in order to delay performing its discovery duties, *see Baron Philippe de Rothschild, S.A. v. Styl-Rite Optical Mfg. Co.*, Opposition No. 95,170, 55 U.S.P.Q.2d 1848 (Jun. 23, 2000);

- Board entered judgment against *pro se* party after repeatedly failing to attend the required discovery conference, *see Patagonia, Inc. v. Azzolini*, Cancellation No. 92055787, 109 U.S.P.Q.2d 1859 (Feb. 28, 2014).

Applicant’s misconduct during his deposition and improper withholding of information alone may not match the acts in these cases. However, given Applicant’s history of other discovery violations, his felony assault on Opposer’s process server should be deemed sufficient.

V. PROTECTIVE MEASURES MUST BE PUT INTO PLACE

For Applicant’s wholesale disrespect for these proceedings and all parties involved, and his violent acts, Opposer strongly urges this Board to grant judgment against him. However, should the Board disagree, Opposer maintains its request that the Board order the protective measures laid out in its Motion to safeguard all parties involved. Applicant has already assaulted one officer of the court, and no one involved in this proceeding should have to encounter Applicant without having law enforcement protection present.

V. CONCLUSION

Opposer respectfully requests that the Board grant Opposer’s Motion for Sanctions and order judgment against Applicant and sustain this opposition.

Date: September 14, 2015

Respectfully submitted,

LATHROP & GAGE LLP

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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE AND ONLINE SUBMISSION

I hereby certify that a true and correct copy of this Reply to Applicant's Response in Opposition to Motion for Sanctions was filed online with the Trademark Trial and Appeal Board using the ESTTA this 14th day of September, 2015. Further, I hereby certify that the above document was deposited in the U.S. Mail, with sufficient first class postage prepaid, on the 14th day of September, 2015, addressed to Opposer's attorney of record:

Mr. Mark Terry
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Miami, FL 33131-2979

By: /Amy Brozenic/
Amy Brozenic

EXHIBIT S

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3 In Re: Application Serial No. 86/184,144
4 For the Mark: ROCK SOLID INVESTMENT
5 Filed: February 4, 2014
6 Published in the Official Gazette: August 5, 2014

7 _____
8 The Prudential Insurance Company of America)

9 Opposer,)

10 vs.)

11 Daryl Bank,)

12 Applicant.)

13) Opp No.
14) 91-219,616

15 DEPOSITION OF DARYL BANK

16 DATE: June 8, 2015

17 TIME: 9:40 a.m.

18 PLACE: 201 SW Port St. Lucie Blvd, #108
19 Port St. Lucie, Florida 34984

20 TAKEN BY: Plaintiff

21 REPORTER: ROBIN J.P. RILEY, CP, a Notary Public of
22 the State of Florida at Large

23 APPEARANCES:

24 FOR OPPOSER:

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Overland Park, Kansas 66210-1669
BY: DAVID R. BARNARD, ESQUIRE

JOB NO.: 248173

Page 2		Page 3	
1	FOR APPLICANT:	1	AND THEREUPON:
2	OFFICE OF MARK TERRY, ESQUIRE	2	Daryl Bank,
3	801 Brickell Avenue	3	called as a witness on behalf of the Plaintiff herein,
4	Suite 900	4	after having been first duly sworn, was examined and
5	Miami, Florida 33131-2979	5	testified as follows:
6	BY: MARK TERRY, ESQUIRE	6	THE WITNESS: Yes.
7		7	DIRECT EXAMINATION
8		8	BY MR. BARNARD:
9	Direct Examination by Mr. Barnard	9	Q. Good morning. Can you please state your name
10	Certificate of Reporter	10	for the record?
11		11	A. Daryl Bank.
12		12	Q. And give your address?
13		13	A. 814 Southwest St. Julien Court, Port St. Lucie,
14		14	Florida.
15		15	Q. Have you ever been deposed before?
16		16	A. Yes.
17		17	Q. Can you tell me about that?
18		18	A. No.
19		19	Q. Why not?
20		20	A. I don't recall it.
21		21	Q. You've been deposed before but you don't
22		22	remember?
23		23	A. Yeah, I don't remember the details.
24		24	Q. Do you remember when you were deposed before
25		25	that you were placed under oath?

Page 4		Page 5	
1	A. I have been before.	1	A. I didn't say I didn't recall anything.
2	Q. Do you understand what that means?	2	Q. What do you recall?
3	A. Uh-huh, yes.	3	A. I don't recall.
4	Q. What does that mean to you?	4	Q. You don't recall a thing about it?
5	A. It means that I'm under oath.	5	A. I just remember I've been deposed before. I
6	Q. Yes, and you gave a deposition before, is that	6	don't remember details of when, how, where.
7	correct?	7	Q. Were you being sued?
8	A. I believe so.	8	A. No.
9	Q. You were in a room just like this with a court	9	Q. Were you a witness to an accident?
10	reporter?	10	A. I don't think so.
11	A. I guess.	11	Q. Do you remember anything about the nature of
12	Q. They swore you to tell the truth?	12	the legal dispute?
13	A. Yes.	13	A. Not right this second, I don't recall.
14	Q. But you don't remember a thing about that?	14	Q. When did this happen?
15	A. You asked me the details and I don't remember	15	A. Some time in the last ten years.
16	the details.	16	Q. Some time in the last ten years. Within the
17	Q. One thing that will make the deposition go	17	last ten years? The last five years?
18	better is you should let me ask the whole question --	18	A. Asked and answered.
19	A. Okay.	19	Q. Are you giving legal objections to --
20	Q. -- because you will want to hear the whole	20	A. No, I answered your question. I just didn't
21	thing and then it will make it easier for her to type	21	want to hear the same question again. It will make it go
22	everything, so if we don't talk over each other, it will	22	a lot faster if you didn't ask the same question.
23	go better.	23	Q. I didn't ask the same question, I asked a
24	So again, you were deposed before but you don't	24	different question. You said within the last ten years
25	recall anything about that, is that correct?	25	and I asked was it the last ten years or the last five

<p style="text-align: right;">Page 6</p> <p>1 years.</p> <p>2 A. I recall at least the last ten.</p> <p>3 Q. Do you recall where that deposition occurred?</p> <p>4 A. I don't.</p> <p>5 Q. It was more than five years you think?</p> <p>6 A. I don't recall right at this moment.</p> <p>7 Q. Do you recall anything about any of the</p> <p>8 questions that you were asked?</p> <p>9 A. I don't right this second.</p> <p>10 Q. Do you understand the nature of the dispute</p> <p>11 that's going on that we're talking about here?</p> <p>12 A. Counsel handles that.</p> <p>13 Q. But do you understand why we're here?</p> <p>14 A. As much as counsel has told me.</p> <p>15 Q. Please briefly tell me what your understanding</p> <p>16 is why we're here today.</p> <p>17 A. That's between me and counsel.</p> <p>18 Q. I'm not asking you for anything that you were</p> <p>19 told by your counsel, I'm asking for your understanding</p> <p>20 of why we're here today.</p> <p>21 A. You found some opposition, that's what I know.</p> <p>22 Q. Can you explain that any better?</p> <p>23 A. That's the only thing I know outside of talking</p> <p>24 to counsel.</p> <p>25 Q. So the nature of the dispute that we have,</p>	<p style="text-align: right;">Page 7</p> <p>1 there's going to be a person, probably in Washington DC,</p> <p>2 who will look at the dispute and try to understand what's</p> <p>3 going on here and there would be no reason for us to be</p> <p>4 here today unless there was some kind of dispute we were</p> <p>5 trying to work out.</p> <p>6 Can you explain for that person who's in</p> <p>7 Washington DC who's going to be reading this transcript</p> <p>8 what your understanding of this dispute is?</p> <p>9 A. That was lengthy. Was that a lecture or a</p> <p>10 question?</p> <p>11 Q. It's a question. I'm trying to explain to you</p> <p>12 the purpose of what we're doing here and to find out</p> <p>13 whether or not you would like to explain your side of the</p> <p>14 story or your side of the dispute?</p> <p>15 A. My job is to answer the questions.</p> <p>16 Q. Fair enough. What is your education?</p> <p>17 A. I've been to high school, college and graduate</p> <p>18 school.</p> <p>19 Q. Where did you go to high school?</p> <p>20 A. Indian River.</p> <p>21 Q. Is that here?</p> <p>22 A. No.</p> <p>23 Q. Where is that?</p> <p>24 A. Virginia.</p> <p>25 Q. When did you graduate?</p>
<p style="text-align: right;">Page 8</p> <p>1 A. '88.</p> <p>2 Q. And then you said college?</p> <p>3 A. Yes.</p> <p>4 Q. Where is that?</p> <p>5 A. Old Dominion University.</p> <p>6 Q. What year did you graduate?</p> <p>7 A. 1993.</p> <p>8 Q. And what was your degree in?</p> <p>9 A. I think it was a Bachelor of Science.</p> <p>10 Q. Do you know what your major was?</p> <p>11 A. I don't recall.</p> <p>12 Q. Did you have any education after college?</p> <p>13 A. Yes.</p> <p>14 Q. What was that?</p> <p>15 A. I have gone to graduate school.</p> <p>16 Q. Where was that?</p> <p>17 A. Virginia.</p> <p>18 Q. UVA?</p> <p>19 A. No.</p> <p>20 Q. Where in Virginia?</p> <p>21 A. Southeastern Virginia.</p> <p>22 Q. And what program were you in?</p> <p>23 A. Law, public policy and business.</p> <p>24 Q. Did you receive a graduate degree of some</p> <p>25 sort?</p>	<p style="text-align: right;">Page 9</p> <p>1 A. No.</p> <p>2 Q. Law, possible policy and business?</p> <p>3 A. Yes.</p> <p>4 Q. And when did you complete your education</p> <p>5 there?</p> <p>6 A. 1996.</p> <p>7 Q. What did you do after that?</p> <p>8 A. Went to work.</p> <p>9 Q. Where was that?</p> <p>10 A. Dean Witter.</p> <p>11 Q. Where did you work for Dean Witter?</p> <p>12 A. Virginia.</p> <p>13 Q. What city?</p> <p>14 A. Virginia Beach.</p> <p>15 Q. And what did you do at Dean Witter?</p> <p>16 A. I was in training.</p> <p>17 Q. What were you in training for?</p> <p>18 A. I don't remember the title of the training.</p> <p>19 Q. What type of training was it?</p> <p>20 A. To go in their financial division.</p> <p>21 Q. And how long were you at Dean Witter?</p> <p>22 A. Three, four months.</p> <p>23 Q. Did you end up working for Dean Witter?</p> <p>24 A. No.</p> <p>25 Q. What did you do after that?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Went to another company.</p> <p>2 Q. Why did you leave Dean Witter after being</p> <p>3 there for three or four months?</p> <p>4 A. Because I didn't finish the training program.</p> <p>5 Q. Was there a reason you didn't finish the</p> <p>6 training program?</p> <p>7 A. Because I didn't finish the training program.</p> <p>8 Q. Did you have a better opportunity?</p> <p>9 A. I had better opportunities.</p> <p>10 Q. What was the next place that you worked?</p> <p>11 A. Paine Webber.</p> <p>12 Q. When did you start working for Paine Webber?</p> <p>13 A. I believe it was '96.</p> <p>14 Q. And where was that?</p> <p>15 A. Virginia.</p> <p>16 Q. Was that in Virginia Beach?</p> <p>17 A. Norfolk.</p> <p>18 Q. What did you do at Paine Webber?</p> <p>19 A. Worked as a financial person.</p> <p>20 Q. Can you be more specific?</p> <p>21 A. No.</p> <p>22 Q. There are many different things involved in</p> <p>23 being in finance. What type of job did you do?</p> <p>24 A. I worked in their financial division.</p> <p>25 Q. What did you do on a daily basis?</p>	<p style="text-align: right;">Page 11</p> <p>1 A. I did all types of things.</p> <p>2 Q. Give me some examples.</p> <p>3 A. Talked to customers.</p> <p>4 Q. What did you talk to customers about?</p> <p>5 A. All types of things.</p> <p>6 Q. Give me an example, please?</p> <p>7 A. How their kids were.</p> <p>8 Q. Were you talking to them about investing in</p> <p>9 college or retirement? What kinds of things?</p> <p>10 A. All types of financials. I don't know how to</p> <p>11 define it any better for you.</p> <p>12 Q. When you were talking to customers, were you</p> <p>13 talking to them face to face or were you talking to them</p> <p>14 on the phone?</p> <p>15 A. I'm sorry, that was multiple questions.</p> <p>16 Q. Did you meet customers face to face or did you</p> <p>17 talk to them on the phone?</p> <p>18 A. Yes.</p> <p>19 Q. Is that all the above?</p> <p>20 A. You asked two questions, it was a yes.</p> <p>21 Q. Yes to both questions, you talked to customers</p> <p>22 face to face and you talked to them on the phone?</p> <p>23 A. Should we break the questions down?</p> <p>24 Q. I'm just asking for a yes or no.</p> <p>25 A. I answered you. Asked and answered.</p>
<p style="text-align: right;">Page 12</p> <p>1 Q. You understand that the purpose of this --</p> <p>2 A. Are you lecturing me or are you here to ask</p> <p>3 questions?</p> <p>4 Q. You understand that the purpose of this is</p> <p>5 somebody is going to read this and evaluate whether or</p> <p>6 not you're trying to be helpful or not. I'm going to do</p> <p>7 my best to help you to be helpful. Can you work with me</p> <p>8 on that or --</p> <p>9 A. I'm answering your questions.</p> <p>10 Q. -- do you want to argue about all this?</p> <p>11 A. I'm not arguing. I'm here to answer questions</p> <p>12 not get lectured.</p> <p>13 Q. Okay. How long were you at Paine Webber?</p> <p>14 A. I don't recall.</p> <p>15 Q. Were you there for a day or a month or a</p> <p>16 year?</p> <p>17 A. More than a day.</p> <p>18 Q. More than a month?</p> <p>19 A. Probably, yeah.</p> <p>20 Q. Were you there for more than a year?</p> <p>21 A. Several years, I don't recall exactly how</p> <p>22 many.</p> <p>23 Q. You were there for several years. Did you do</p> <p>24 anything else during the several years at Paine Webber</p> <p>25 besides talk to customers about their kids?</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Yes.</p> <p>2 Q. What did you do?</p> <p>3 A. I worked in areas of finance with Paine</p> <p>4 Webber.</p> <p>5 Q. Did that include investments?</p> <p>6 A. Yes.</p> <p>7 Q. Did you do any other kind of financial work at</p> <p>8 Paine Webber besides investments?</p> <p>9 A. I'm not sure I understand the question.</p> <p>10 Q. In finance you might be talking to people about</p> <p>11 insurance, you might be talking about a variety of</p> <p>12 things.</p> <p>13 I'm just curious, what did you do at Paine</p> <p>14 Webber in terms of the types of financial --</p> <p>15 A. The variety of things you suggested.</p> <p>16 Q. So you talked to people about insurance too?</p> <p>17 A. Yes.</p> <p>18 Q. What else?</p> <p>19 A. All types of matters in finance.</p> <p>20 Q. Did you talk to them about commodities?</p> <p>21 A. Yes.</p> <p>22 Q. What types of commodities?</p> <p>23 A. I don't recall.</p> <p>24 Q. Can you give me an example of what you might</p> <p>25 have done during a typical day at Paine Webber when you</p>

<p style="text-align: right;">Page 14</p> <p>1 were there?</p> <p>2 A. Every day was different.</p> <p>3 Q. Can you give me an example?</p> <p>4 A. I'm not sure I understand the question.</p> <p>5 Q. Do you remember anything from when you worked</p> <p>6 at Paine Webber, a specific thing that you worked on?</p> <p>7 A. Yeah, talking to customers.</p> <p>8 Q. Do you remember any specific customers?</p> <p>9 A. Yes.</p> <p>10 Q. Who was that?</p> <p>11 A. Joe Swanson.</p> <p>12 Q. What did you help Joe Swanson with?</p> <p>13 A. All types of areas in his finances.</p> <p>14 Q. How old was Joe Swanson?</p> <p>15 A. I don't recall.</p> <p>16 Q. Was he older than me?</p> <p>17 A. I don't know how old you are.</p> <p>18 Q. Was he retirement age?</p> <p>19 A. Yes.</p> <p>20 Q. And what kinds of things did you help him</p> <p>21 with?</p> <p>22 A. All areas in his finances.</p> <p>23 Q. Did he have a portfolio that you helped plan?</p> <p>24 A. I believe so.</p> <p>25 Q. When did you leave Paine Webber?</p>	<p style="text-align: right;">Page 15</p> <p>1 You said several years, do you remember</p> <p>2 roughly?</p> <p>3 A. I don't recall.</p> <p>4 Q. Where did you go after Paine Webber?</p> <p>5 A. Dominion Investment Group.</p> <p>6 Q. Do you remember what year that was?</p> <p>7 A. I don't.</p> <p>8 Q. How did you come to Dominion Investment Group,</p> <p>9 how did you find out about it?</p> <p>10 A. I didn't find out about them.</p> <p>11 Q. Did you go directly from Paine Webber to</p> <p>12 Dominion Investment Group?</p> <p>13 A. Yes.</p> <p>14 Q. Did they recruit you?</p> <p>15 A. No.</p> <p>16 Q. How did you find out about a job opportunity at</p> <p>17 Dominion?</p> <p>18 A. I didn't.</p> <p>19 Q. How did you end up working there?</p> <p>20 A. I formed a company.</p> <p>21 Q. So you were one of the founders of Dominion?</p> <p>22 A. Yes.</p> <p>23 Q. Who are the other founders?</p> <p>24 A. I don't recall.</p> <p>25 Q. How many were there?</p>
<p style="text-align: right;">Page 16</p> <p>1 A. I don't recall.</p> <p>2 Q. Were there more than ten?</p> <p>3 A. I don't recall.</p> <p>4 Q. How was it that you came to found a company</p> <p>5 with an unknown group of people who you don't recall?</p> <p>6 A. I'm sorry, there's multiple questions but they</p> <p>7 weren't unknown.</p> <p>8 Q. Who are the people that you do recall?</p> <p>9 A. Lawrence Smith.</p> <p>10 Q. Who else?</p> <p>11 A. Debbie Dykman (phonetic).</p> <p>12 Q. How do you spell Debbie's last name?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you recall the names of anybody else, who</p> <p>15 helped found Dominion?</p> <p>16 A. There was a guy named David.</p> <p>17 Q. There's a lot of guys named David. Do you</p> <p>18 remember anything about his last name?</p> <p>19 A. No, not his last name.</p> <p>20 Q. You say you don't remember how many people</p> <p>21 there were. Was it more than ten?</p> <p>22 A. Probably.</p> <p>23 Q. How did you come to found a company with these</p> <p>24 people?</p> <p>25 A. I was asked to.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. Who asked you?</p> <p>2 A. The people I mentioned there and others.</p> <p>3 Q. Who are the others who asked you?</p> <p>4 A. I don't recall everybody's name.</p> <p>5 Q. What did they tell you they wanted to do?</p> <p>6 A. Start an investment firm.</p> <p>7 Q. And how were you contacted?</p> <p>8 A. I don't recall.</p> <p>9 Q. Was this through a friend or did you just get a</p> <p>10 cold call? How did you find out about this?</p> <p>11 A. I don't recall.</p> <p>12 Q. Were you asked to put up any capital?</p> <p>13 A. I don't recall that I was.</p> <p>14 Q. You don't know whether you were asked to invest</p> <p>15 in this company or not?</p> <p>16 A. Invest, I did invest in the company.</p> <p>17 Q. How much did you invest in the company?</p> <p>18 A. Dollars?</p> <p>19 Q. Yes.</p> <p>20 A. None.</p> <p>21 Q. What did you invest in the company?</p> <p>22 A. My time and energy.</p> <p>23 Q. So you were not asked to make a capital</p> <p>24 contribution or something in terms of dollars but you</p> <p>25 were getting an equity stake for the work you were doing,</p>

<p style="text-align: right;">Page 18</p> <p>1 is that a fair characterization?</p> <p>2 A. That would be a fair characterization.</p> <p>3 Q. And you don't remember who asked you to do</p> <p>4 this?</p> <p>5 A. I think I mentioned several names.</p> <p>6 Q. Can you tell me a little bit about what you</p> <p>7 recall from that time period when you were asked by</p> <p>8 Lawrence Smith or Debbie Dykman or David something, what</p> <p>9 did they say that their goal was?</p> <p>10 A. To create an investment firm.</p> <p>11 Q. Is Lawrence Smith still with the company?</p> <p>12 A. With what company?</p> <p>13 Q. Dominion Investment Group.</p> <p>14 A. No.</p> <p>15 Q. How long has he been gone?</p> <p>16 A. I don't recall.</p> <p>17 Q. Can you give me -- roughly, has it been within</p> <p>18 the last five years?</p> <p>19 A. I don't recall.</p> <p>20 Q. What about Debbie Dykman, is she still there?</p> <p>21 A. No.</p> <p>22 Q. Do you know when she left?</p> <p>23 A. I do not.</p> <p>24 Q. Did you ever talk to Lawrence Smith or Debbie</p> <p>25 Dykman after you first helped found Dominion Investment</p>	<p style="text-align: right;">Page 19</p> <p>1 Group?</p> <p>2 A. Yes.</p> <p>3 Q. How often?</p> <p>4 A. Oh, my goodness, often.</p> <p>5 Q. When did you stop talking to them?</p> <p>6 A. I haven't not stopped talking to them.</p> <p>7 Q. You know they left but you don't know what</p> <p>8 period of time?</p> <p>9 A. I don't.</p> <p>10 Q. When is the last time you talked to Lawrence</p> <p>11 Smith?</p> <p>12 A. I'm guessing maybe six months ago.</p> <p>13 Q. Where is he now?</p> <p>14 A. I don't understand the question.</p> <p>15 Q. It sounds like he is no longer with the</p> <p>16 Dominion Investment Group. Is he with another company</p> <p>17 now?</p> <p>18 A. I don't know.</p> <p>19 Q. Did you just talk to him socially?</p> <p>20 A. I'm sorry?</p> <p>21 Q. You said he talked to him six months ago?</p> <p>22 A. Yes, I'm guessing.</p> <p>23 Q. Was it a social call or a business call?</p> <p>24 A. I'm sure it was a social call. It could have</p> <p>25 been business but I don't recall.</p>
<p style="text-align: right;">Page 20</p> <p>1 Q. In terms of Lawrence Smith, can you say whether</p> <p>2 he left within last ten years?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you remember what year you started Dominion</p> <p>5 Investment Group or you started with this group of people</p> <p>6 that started Dominion Investment Group?</p> <p>7 A. Some time in the 2000s.</p> <p>8 Q. Do you have any more specific recollections?</p> <p>9 A. I don't right at this moment.</p> <p>10 Q. Do you recall anybody else who was one of the</p> <p>11 founders besides Lawrence Smith, Debbie Dykman or</p> <p>12 David?</p> <p>13 A. I don't. I'm sure there were others.</p> <p>14 Q. What kinds of investments was Dominion involved</p> <p>15 in at that time?</p> <p>16 A. I don't recall specifics at that time but it</p> <p>17 was all areas of finance.</p> <p>18 Q. Would that include equity investments?</p> <p>19 A. Yes.</p> <p>20 Q. Would that include commodities?</p> <p>21 A. I don't think so. I don't recall.</p> <p>22 Q. Did that include bonds?</p> <p>23 A. Yes.</p> <p>24 Q. Was this primarily for people would were</p> <p>25 looking at retirement or people who were looking to do</p>	<p style="text-align: right;">Page 21</p> <p>1 something more aggressive? Was there a goal?</p> <p>2 A. I'm sorry, that was multiple questions.</p> <p>3 Q. Understood. What was the -- other than just to</p> <p>4 help people with investments, did you have a particular</p> <p>5 market that you targeted?</p> <p>6 A. No.</p> <p>7 Q. Did you advise on insurance, was that one of</p> <p>8 the purposes of Dominion Investment Group?</p> <p>9 A. Yes.</p> <p>10 Q. What types of insurance?</p> <p>11 A. All types of insurance.</p> <p>12 Q. Would that include life insurance?</p> <p>13 A. Yes.</p> <p>14 Q. What other types of insurance?</p> <p>15 A. All types.</p> <p>16 Q. Property?</p> <p>17 A. Yes.</p> <p>18 Q. Casualty?</p> <p>19 A. Property and casualty is one type, yes.</p> <p>20 Q. Any other kinds of investment?</p> <p>21 A. All kinds.</p> <p>22 Q. When Dominion Investment Group was started, did</p> <p>23 you work with individual insurance companies? Did you</p> <p>24 sell their products?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Was Prudential one of those companies?</p> <p>2 A. I don't recall.</p> <p>3 Q. How many -- do you recall any of the companies</p> <p>4 with whose life insurance products you sold?</p> <p>5 A. No.</p> <p>6 Q. Do you know if -- well, let me back up.</p> <p>7 When did Dominion Investment Group first start</p> <p>8 operating as a business?</p> <p>9 A. Some time in the 2000s.</p> <p>10 Q. Do you recall any more specific than that?</p> <p>11 A. I don't.</p> <p>12 Q. Did you set up relationships with insurance</p> <p>13 companies to sell their products?</p> <p>14 A. Yes.</p> <p>15 Q. Which insurance companies did you set up a</p> <p>16 relationship with?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you still sell insurance products?</p> <p>19 A. Me?</p> <p>20 Q. Do you offer through Dominion insurance</p> <p>21 products?</p> <p>22 A. Me? I don't understand the question. Are you</p> <p>23 asking me or the company?</p> <p>24 Q. Personally, do you deal with that?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Does the company still sell insurance</p> <p>2 products?</p> <p>3 A. Dominion Investment Group?</p> <p>4 Q. Yes.</p> <p>5 A. No.</p> <p>6 Q. Does it broker insurance products?</p> <p>7 A. No.</p> <p>8 Q. Are you sure about that?</p> <p>9 A. Yes.</p> <p>10 Q. Is Dominion Investment Group still an operating</p> <p>11 entity?</p> <p>12 A. Yes.</p> <p>13 Q. Do you still work for or with -- I'm going to</p> <p>14 ask you a question which has nothing to do with any</p> <p>15 substance, it's about nomenclature for insurance, what we</p> <p>16 call stuff.</p> <p>17 Since you're an owner, sometimes I know that</p> <p>18 owners of companies don't say I work for this company</p> <p>19 because they own the company. If I ask you about your</p> <p>20 work for Dominion Investment Group, does that offend you</p> <p>21 in any way?</p> <p>22 A. No, sir.</p> <p>23 Q. Do you still work for Dominion Investment</p> <p>24 Group?</p> <p>25 A. I assume that I do. My key worked as of</p>
<p style="text-align: right;">Page 24</p> <p>1 yesterday.</p> <p>2 Q. And the company still sells insurance?</p> <p>3 A. No.</p> <p>4 Q. Still brokers's insurance?</p> <p>5 A. No.</p> <p>6 Q. Do you know why the company does not broker</p> <p>7 insurance anymore?</p> <p>8 A. Because it doesn't.</p> <p>9 Q. Do you know when the decision was made to stop</p> <p>10 doing that?</p> <p>11 A. I don't.</p> <p>12 Q. Do you know who would have made that</p> <p>13 decision?</p> <p>14 A. Several people.</p> <p>15 Q. Who are those people?</p> <p>16 A. I don't recall. I would have been one of</p> <p>17 them.</p> <p>18 Q. So you would have been one of them who would</p> <p>19 make the decision but you don't recall making it?</p> <p>20 A. I didn't say I don't recall, I don't when it</p> <p>21 was made.</p> <p>22 Q. Do you recall making a decision not to broker</p> <p>23 insurance?</p> <p>24 A. I don't recall the specific event.</p> <p>25 Q. What do you recall about it?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. That it's no longer brokered.</p> <p>2 Q. So has Dominion Investment Group moved entirely</p> <p>3 away from insurance?</p> <p>4 A. Dominion Investment Group has.</p> <p>5 Q. Do you know why?</p> <p>6 A. I don't recall why the decision was made.</p> <p>7 Q. Was it not profitable? Was it just a business</p> <p>8 you wanted to get out of?</p> <p>9 You don't recall anything about it?</p> <p>10 A. I don't recall why the specific decision was</p> <p>11 made.</p> <p>12 Q. I'm not asking necessarily in terms of</p> <p>13 specifics, I'm just asking what do you recall about the</p> <p>14 decision that was made to move away from insurance.</p> <p>15 A. The decision was made.</p> <p>16 Q. But do you know why?</p> <p>17 A. I don't.</p> <p>18 Q. What investments does Dominion Investment Group</p> <p>19 work on now?</p> <p>20 A. None.</p> <p>21 Q. None?</p> <p>22 A. None.</p> <p>23 Q. Is it still an operating company though?</p> <p>24 A. Yes.</p> <p>25 Q. You said your key still works?</p>

<p style="text-align: right;">Page 26</p> <p>1 A. It did as of yesterday. I haven't been there 2 today. 3 Q. What does it do? 4 A. What does my key do? 5 Q. Dominion Investment Group, what does it do 6 these days? 7 A. It's a holding company. 8 Q. What other companies does it hold? 9 A. I'm not sure but currently I don't think it's 10 any but I'm not sure of that. 11 Q. So am I correct that it sounds like Dominion 12 Investment Group is not an operating company other than 13 to simply hold other companies, is that correct? 14 A. To the best of my knowledge. You might need to 15 consult with my attorney on that. 16 Q. Does Dominion Investment Group have any 17 employees? 18 A. I think that it does. 19 Q. How many? 20 A. I don't know. 21 Q. Are you still an owner of Dominion Investment 22 Group? 23 A. To my knowledge, I am. 24 Q. What percentage ownership do you have? 25 A. I don't recall.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. Can you give me a ballpark? 2 A. Less than 100. 3 Q. Less than 100. Is it more than 50? 4 A. Yes. 5 Q. Who are the other owners of Dominion Investment 6 Group at this time? 7 A. I don't recall all of them. 8 Q. Tell me who you do recall. 9 A. Raeann Gibson. 10 Q. Can you spell that? 11 A. R-a-e-a-n-n. 12 Q. Is that Gibson with a B? 13 A. With a B. 14 Q. Who else is an owner? 15 A. Roger Hudspeth. 16 Q. Can you spell Hudspeth? 17 A. H-u-d-s-p-e-t-h. 18 Q. Who are the other owners? 19 A. Catrina Davis. 20 Q. Is that K-a? 21 A. C-a. 22 Q. Who else? 23 A. I don't recall. 24 Q. Do you think there are other owners besides 25 Raeann, Roger and Catrina?</p>
<p style="text-align: right;">Page 28</p> <p>1 A. I'm not completely sure. 2 Q. If you wanted to find out the answer to that 3 question, what would you have to do? 4 A. Consult general counsel. 5 Q. Is there a document though that you would 6 consult? 7 A. I don't know, I would have to consult general 8 counsel. 9 Q. Who is the general counsel? 10 A. William J. Seabolt. 11 Q. Is that S-i-e. 12 A. S-e-a as in ocean screw. 13 Q. Do you have any kind of an ownership agreement 14 or a partnership agreement with them, with Dominion 15 Investment Group? 16 A. I assume we do. 17 Q. Did you ever send e-mails as part of your job 18 as Dominion Investment Group? 19 A. Not as a part of my job, but, yes. 20 Q. Do you have an e-mail address at Dominion 21 Investment Group? 22 A. Yes. 23 Q. Do you have any other work e-mails that you 24 use? 25 A. Not that I'm aware of.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Now you have filed an application for Rock 2 Solid Investment at the United States trademark office. 3 A. My attorney did. 4 Q. When did you decide to do that? 5 A. Whenever my attorney filed it. 6 Q. Well, I'm not asking you what you talked to 7 your attorney about. 8 A. You asked me when I did it. 9 Q. When, exactly. 10 A. Whenever he did it. 11 Q. Do you remember coming up with the idea? 12 A. Yes. 13 Q. Tell me about that, please. 14 A. I'm sorry, help me with the question again? 15 Q. Tell me about how you came up with that idea? 16 A. I was on my bike. 17 Q. Can you describe the scene? 18 A. Yeah. I was actually turning out of my 19 neighborhood onto the back road. 20 Q. And what made you think of Rock Solid 21 Investment at that time? 22 A. Stroke of genius. 23 Q. Can you give me any more specifics about how 24 you came up with that? 25 A. That's where my best ideas come from.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. When you're riding on your bike?</p> <p>2 A. And in the shower.</p> <p>3 Q. In terms of this specific idea -- let me</p> <p>4 back up.</p> <p>5 How long have you been involved with</p> <p>6 investigating in precious stones?</p> <p>7 A. All my adult life.</p> <p>8 Q. Okay. How did you start that type of</p> <p>9 business?</p> <p>10 A. Working at a jewelry store.</p> <p>11 Q. Where did you work at a jewelry store?</p> <p>12 A. Virginia.</p> <p>13 Q. Where specifically?</p> <p>14 A. Greensboro Mall.</p> <p>15 Q. Do you remember what the name of that jewelry</p> <p>16 store was?</p> <p>17 A. D.P. Paul.</p> <p>18 Q. Has Dominion Investment Group been involved in</p> <p>19 precious stone investments?</p> <p>20 A. No.</p> <p>21 Q. It never has?</p> <p>22 A. They may have, I don't recall. I'll say that,</p> <p>23 they may have.</p> <p>24 Q. Did you ever do any investment work while you</p> <p>25 were working with Dominion Investment Group involving</p>	<p style="text-align: right;">Page 31</p> <p>1 precious stones?</p> <p>2 A. Yes.</p> <p>3 Q. Tell me about that.</p> <p>4 A. I helped clients broker transactions in</p> <p>5 precious stones.</p> <p>6 Q. And specifically did you have companies that</p> <p>7 you'd work with that you would buy the precious stones</p> <p>8 from?</p> <p>9 A. Yes.</p> <p>10 Q. Who are they?</p> <p>11 A. I don't recall all of them.</p> <p>12 Q. Can you give me some primary examples?</p> <p>13 A. Currently or in history?</p> <p>14 Q. In history and then we'll talk about currently.</p> <p>15 A. In history I remember one was called A Nitch in</p> <p>16 Time.</p> <p>17 Q. A Nitch in Time, where were they located?</p> <p>18 A. In Virginia.</p> <p>19 Q. Is that a jewelry store?</p> <p>20 A. They were an estate jewelry brokering.</p> <p>21 Q. And forgive me, I don't know a lot about the</p> <p>22 precious stone --</p> <p>23 A. I've already forgiven you.</p> <p>24 Q. -- business. Do people buy the jewelry that --</p> <p>25 is -- I guess when I hear precious stones I think about</p>
<p style="text-align: right;">Page 32</p> <p>1 the stones. Do people particularly buy them already in</p> <p>2 some kind of a set jewelry?</p> <p>3 A. I don't quite understand the question.</p> <p>4 Q. You mentioned estate jewelry. When I think</p> <p>5 about investing in precious stones, one option would be</p> <p>6 to just buy the stone itself but you also just mentioned</p> <p>7 estate jewelry. Do people --</p> <p>8 A. I was mentioning what the company does. You</p> <p>9 asked me what the company did.</p> <p>10 Q. Were they selling standalone gems then too?</p> <p>11 A. Yes.</p> <p>12 Q. What companies do you work with now in terms of</p> <p>13 brokering precious stones transactions?</p> <p>14 A. M.R. Diamonds.</p> <p>15 Q. And where are they located?</p> <p>16 A. Florida.</p> <p>17 Q. Where in Florida?</p> <p>18 A. South Florida. I don't know if it's Hollywood</p> <p>19 or Delray.</p> <p>20 Q. Is that the only diamond company you work</p> <p>21 with?</p> <p>22 A. Yes.</p> <p>23 Q. Now you said you came up with the idea for Rock</p> <p>24 Solid Investments when you were on your bike. You said</p> <p>25 it was a stroke of genius, why do you say that?</p>	<p style="text-align: right;">Page 33</p> <p>1 A. Because it was. I think it's a great title</p> <p>2 line for something that's in the diamond business which</p> <p>3 is a rock.</p> <p>4 Q. Do you intend to use Rock Solid Investment for</p> <p>5 any other businesses that are not diamonds?</p> <p>6 A. No.</p> <p>7 Q. Do you understand that your trademark</p> <p>8 application is broader than just diamonds?</p> <p>9 A. Is that a question for me?</p> <p>10 Q. It is.</p> <p>11 A. My attorney handles the application.</p> <p>12 Q. Do you intend to grow the name Rock Solid</p> <p>13 Investment beyond diamonds?</p> <p>14 A. I don't understand what you mean.</p> <p>15 Q. It sounds like you want to use it for the</p> <p>16 diamond business but it also sounds like you've been</p> <p>17 involved in other kinds of financial businesses?</p> <p>18 A. Yes.</p> <p>19 Q. My question is do you intend to use Rock Solid</p> <p>20 Investments to do any other kind of investing type</p> <p>21 business or any other type of financial business that is</p> <p>22 outside of precious stones, like insurance or annuities</p> <p>23 or anything like that?</p> <p>24 A. I'm going ask a question so I understand. Do</p> <p>25 you mean would I sell an annuity product and call it a</p>

<p style="text-align: right;">Page 34</p> <p>1 Rock Solid Investment, is that what you mean?</p> <p>2 Q. Or if you were going to have a company called</p> <p>3 Rock Solid Investment, is it going to do anything exactly</p> <p>4 like that, like sell annuities or --</p> <p>5 A. No, that would be against the law. You can't</p> <p>6 use the words investment and insurance together. Let me</p> <p>7 preface, I don't know if it's against the law but I know</p> <p>8 no state insurance commissioner will allow it and the</p> <p>9 National Association of Insurance Commissioners has</p> <p>10 specifically barred that practice.</p> <p>11 Q. Do you understand that the dispute that we're</p> <p>12 here to talk about today is that Prudential owns a series</p> <p>13 of marks that have Rock Solid in their name and that's</p> <p>14 why they're opposing your application for Rock Solid</p> <p>15 investment?</p> <p>16 A. Is that a question for my attorney?</p> <p>17 Q. I'm asking your understanding. Do you</p> <p>18 understand that to be why we're here today?</p> <p>19 A. I'm sorry, tell me the question again.</p> <p>20 Q. You understand that Prudential has opposed your</p> <p>21 application for Rock Solid Investment, correct?</p> <p>22 A. That's why we're here, I believe.</p> <p>23 Q. Yeah, do you know why?</p> <p>24 A. You like to bully people? I don't know.</p> <p>25 Q. Do you have any evidence we bullied anybody?</p>	<p style="text-align: right;">Page 35</p> <p>1 A. You asked the question. I'm under oath, aren't</p> <p>2 I? You're telling me to answer.</p> <p>3 Q. I'm asking you if -- well, let me back up a</p> <p>4 little bit. You mentioned the word bully.</p> <p>5 A. You asked me a question, I answered it.</p> <p>6 Q. If somebody came on your property, would that</p> <p>7 concern you?</p> <p>8 A. No.</p> <p>9 Q. It wouldn't?</p> <p>10 A. No.</p> <p>11 Q. If somebody set up a tent in your front yard,</p> <p>12 that wouldn't both you at all?</p> <p>13 A. Do I know this person?</p> <p>14 Q. No. Somebody from Florida.</p> <p>15 A. That doesn't happen in Florida. We have some</p> <p>16 interesting laws that keep that from happening.</p> <p>17 Q. Do you know whether or not Prudential is in the</p> <p>18 precious stones business?</p> <p>19 A. I do not know.</p> <p>20 Q. It's not.</p> <p>21 A. Oh.</p> <p>22 Q. Do you know whether or not -- just cut to brass</p> <p>23 tax here. Are you aware of the possibility that you</p> <p>24 could file your application and have it and do whatever</p> <p>25 you want to do with it in your diamond business or your</p>
<p style="text-align: right;">Page 36</p> <p>1 precious stones business, are you aware of the fact that</p> <p>2 an option has been offered to you to do that and that the</p> <p>3 only reason we're here today is because that's been</p> <p>4 rejected?</p> <p>5 A. Is that a question for my attorney?</p> <p>6 Q. It's something you might want to talk to him</p> <p>7 about.</p> <p>8 I want to know whether or not you're aware that</p> <p>9 that offer has been made to, again, do whatever you want</p> <p>10 to in the precious stones sphere, as long as you're not</p> <p>11 in these other businesses that Prudential is in then we</p> <p>12 don't even have a fight today.</p> <p>13 Are you aware that offer has been made?</p> <p>14 MR. TERRY: Can we go off the record please?</p> <p>15 (Thereupon, a discussion was held off</p> <p>16 the record.)</p> <p>17 MR. BARNARD: I'm going to show you some</p> <p>18 documents.</p> <p>19 (Marked for identification as Opposer's</p> <p>20 Exhibit No. 1.)</p> <p>21 BY MR. BARNARD:</p> <p>22 Q. Have you ever seen that document before, Mr.</p> <p>23 Bank?</p> <p>24 A. I don't recall.</p> <p>25 Q. Are you aware of whether or not that is a copy</p>	<p style="text-align: right;">Page 37</p> <p>1 of your application for a trademark?</p> <p>2 A. I'm sorry. You're asking me if I'm aware that</p> <p>3 this is a copy?</p> <p>4 Q. Yeah. You never saw this document?</p> <p>5 A. You asked me if this was a copy, I told you I'm</p> <p>6 not aware of it.</p> <p>7 Q. Do you recognize this copy?</p> <p>8 A. Doesn't ring a bell off the top of my head.</p> <p>9 Q. Are you in a position today to say whether or</p> <p>10 not that is an authentic copy of your trademark</p> <p>11 application?</p> <p>12 A. You'd have to ask my attorney.</p> <p>13 Q. You can't say one way or the other?</p> <p>14 A. It sounds like you're asking me to authenticate</p> <p>15 something which I'm not in a position to do.</p> <p>16 Q. Yeah. Can you say whether or not this is an</p> <p>17 authentic true and accurate copy of your trademark</p> <p>18 application?</p> <p>19 A. My attorney could.</p> <p>20 Q. But you cannot?</p> <p>21 A. No, that's why we have counsel.</p> <p>22 (Marked for identification as Opposer's Exhibit</p> <p>23 No. 2.)</p> <p>24 BY MR. BARNARD:</p> <p>25 Q. Do you recognize this document, Mr. Bank?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. Yes.</p> <p>2 Q. What is it?</p> <p>3 A. It's an eight and a half by 11 piece of</p> <p>4 paper.</p> <p>5 Q. Do you recognize the substance or the words</p> <p>6 that are on there?</p> <p>7 A. It appears there's a combination of words and</p> <p>8 numbers.</p> <p>9 Q. Have you ever seen this document before?</p> <p>10 A. I don't know that I have. I may have, I don't</p> <p>11 recall.</p> <p>12 Q. Do you recognize this document from having</p> <p>13 looked at it in the past?</p> <p>14 A. I seem to recognize some of the verbiage on</p> <p>15 here.</p> <p>16 Q. Do you remember going through this and working</p> <p>17 on this document at all?</p> <p>18 A. If I did, I would have done it with counsel.</p> <p>19 In fact, his signature is on here so this appears to be</p> <p>20 his document. This is his document.</p> <p>21 Q. Are you in a position to say yes or no whether</p> <p>22 this is a true and accurate copy of the answer that was</p> <p>23 filed in your trademark application proceeding?</p> <p>24 A. You're asking me to authenticate this and I</p> <p>25 don't know that I'm in a position to authenticate it.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Okay. Do you remember authorizing your counsel</p> <p>2 to sign that document, No. 2?</p> <p>3 MR. TERRY: Objection, that's attorney-client</p> <p>4 privilege. That has to do with an attorney-client</p> <p>5 communication.</p> <p>6 MR. BARNARD: It does but it doesn't have to do</p> <p>7 with a confidential attorney-client communication</p> <p>8 because it's a public record and you have</p> <p>9 signed it.</p> <p>10 MR. TERRY: What you asked Mr. Bank was did you</p> <p>11 authorize your attorney to sign that.</p> <p>12 MR. BARNARD: Correct.</p> <p>13 MR. TERRY: That is a confidential</p> <p>14 communication so I want to instruct the client not</p> <p>15 to answer that.</p> <p>16 MR. BARNARD: Okay. Obviously there's nobody</p> <p>17 we can call right now but the thing is is that for</p> <p>18 it to be an attorney-client privilege communication</p> <p>19 it has to be confidential. This is a signed public</p> <p>20 document, so you're telling me your client is not</p> <p>21 going to tell me whether or not this is an</p> <p>22 authorized answer that he has put in the public</p> <p>23 record?</p> <p>24 I mean, it puts you in more trouble than him if</p> <p>25 the answer is one way rather than the other, I'm</p>
<p style="text-align: right;">Page 40</p> <p>1 just asking for things that are going to make this</p> <p>2 easier in terms of evidentiary issues.</p> <p>3 MR. TERRY: You can go ahead and ask Mr. Bank</p> <p>4 whatever you like.</p> <p>5 MR. BARNARD: But you're instructing him not to</p> <p>6 answer.</p> <p>7 MR. TERRY: -- and I'll object on anything that</p> <p>8 has attorney-client information.</p> <p>9 MR. BARNARD: So you're going to stand on that</p> <p>10 objection?</p> <p>11 MR. TERRY: I advised him not to answer that</p> <p>12 particular question but feel free to ask him to</p> <p>13 answer any other questions.</p> <p>14 MR. BARNARD: That's fine. Let's talk about</p> <p>15 this one (indicating).</p> <p>16 (Marked for identification as Opposer's</p> <p>17 Exhibit No. 3.)</p> <p>18 BY MR. BARNARD:</p> <p>19 Q. Do you recognize Exhibit 3?</p> <p>20 A. Yes.</p> <p>21 Q. What is Exhibit 3?</p> <p>22 A. It appears to be a stack of eight and a half by</p> <p>23 11 pages stapled in the upper right-hand corner.</p> <p>24 Q. When I say do you recognize it, have you seen</p> <p>25 this particular document before?</p>	<p style="text-align: right;">Page 41</p> <p>1 A. No, you pulled it out of your briefcase.</p> <p>2 Q. Have you ever seen a copy of this same</p> <p>3 information that is here?</p> <p>4 A. I got so involved I forgot your question.</p> <p>5 Q. Do you remember working on that document and</p> <p>6 trying to answer these questions?</p> <p>7 A. Yes.</p> <p>8 Q. Did anybody else besides you and your attorney</p> <p>9 provide any of the information that you have as the</p> <p>10 responses to these questions?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Now you applied for Rock Solid Investment in</p> <p>13 your individual name. Do you intend to use Rock Solid</p> <p>14 Investment with any existing business?</p> <p>15 A. Yes.</p> <p>16 Q. What is the name of that business?</p> <p>17 If it's easier, I wasn't asking you a question</p> <p>18 about the document I was asking what business do you</p> <p>19 intend to use --</p> <p>20 A. You handed me the document, I assumed you were</p> <p>21 referring to that so I was going back to the page.</p> <p>22 According to the document you handed me, it says Dominion</p> <p>23 Diamonds.</p> <p>24 Q. Do you intend to use Rock Solid Investment with</p> <p>25 Dominion Diamonds, LLC?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. Yes.</p> <p>2 Q. Do you intend to use it with any other</p> <p>3 company?</p> <p>4 A. I'm not sure if I understand.</p> <p>5 Q. Is there any other company that you work with</p> <p>6 in any way, shape or form that you intend to use Rock</p> <p>7 Solid Investments as a trademark for that company?</p> <p>8 A. At this moment it's Dominion Diamonds.</p> <p>9 Q. And so do you intend to use Rock Solid</p> <p>10 Investments with Dominion Investment Group?</p> <p>11 A. I don't know what my intent is. I have no</p> <p>12 intent right at this moment.</p> <p>13 Q. Is that something you might do in the future?</p> <p>14 A. Anything is possible.</p> <p>15 Q. But it's your testimony today there are no</p> <p>16 present plans to use Rock Solid investment with any other</p> <p>17 company other than Dominion Diamonds, LLC?</p> <p>18 A. You asked me what my intent is right at this</p> <p>19 moment.</p> <p>20 Q. Yes.</p> <p>21 A. That's what my intent is right at this</p> <p>22 moment.</p> <p>23 Q. I'd like you to take a look at -- what is the</p> <p>24 third page on here?</p> <p>25 Do you see that question at the top, number</p>	<p style="text-align: right;">Page 43</p> <p>1 four, which asks for documents referring to your</p> <p>2 selection and adoption of the Rock Solid Investment</p> <p>3 mark?</p> <p>4 A. Yes.</p> <p>5 Q. And the answer that you gave is you don't have</p> <p>6 any documents that would reflect your decision to adopt</p> <p>7 the Rock Solid investment mark?</p> <p>8 A. That was the answer.</p> <p>9 Q. I know you came up with it when you were on</p> <p>10 your bicycle, you said that earlier, is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Did you discuss that choice with anybody</p> <p>13 besides your attorney after you had come up with the</p> <p>14 idea?</p> <p>15 A. Yes.</p> <p>16 Q. Who are those people?</p> <p>17 A. My other attorney.</p> <p>18 Q. Who is your other attorney?</p> <p>19 A. William J. Seabolt.</p> <p>20 Q. Got it. You said that William J. Seabolt is</p> <p>21 the general counsel for Dominion Investment Group?</p> <p>22 A. Yes.</p> <p>23 Q. Is he also your private attorney?</p> <p>24 A. No.</p> <p>25 Q. Did you ask him about Rock Solid -- let me</p>
<p style="text-align: right;">Page 44</p> <p>1 back up.</p> <p>2 Did you ask him in his capacity as an attorney</p> <p>3 for Dominion Investment Group?</p> <p>4 MR. TERRY: Objection. You're asking Mr. Bank</p> <p>5 about what he asked his attorney, that's</p> <p>6 attorney-client privilege.</p> <p>7 MR. BARNARD: That's actually not what I'm</p> <p>8 asking. I'm asking what capacity Mr. Seabolt was</p> <p>9 talking to Mr. Bank in. I know he is an attorney.</p> <p>10 MR. TERRY: That's not what I heard. If that's</p> <p>11 the question, then I don't object. If you want to</p> <p>12 reask it, go ahead.</p> <p>13 BY MR. BARNARD:</p> <p>14 Q. In terms of you talking to Mr. Seabolt about</p> <p>15 Rock Solid Investment, was he serving as your attorney or</p> <p>16 was he serving as an attorney for Dominion Investment</p> <p>17 Group?</p> <p>18 A. I don't recall what capacity he was serving in</p> <p>19 and all of my communications with him would be</p> <p>20 privileged.</p> <p>21 Q. That was your assumption at the time?</p> <p>22 A. I have no assumptions.</p> <p>23 Q. But to the best of your knowledge you were</p> <p>24 asking him in his capacity as the general counsel of</p> <p>25 Dominion Investment Group questions about your</p>	<p style="text-align: right;">Page 45</p> <p>1 trademark?</p> <p>2 A. I was asking him as counsel.</p> <p>3 Q. As counsel for Dominion Investment Group?</p> <p>4 A. I was asking him as counsel.</p> <p>5 Q. Do you know what capacity you were asking him</p> <p>6 that question?</p> <p>7 A. Yes.</p> <p>8 Q. You're saying as counsel?</p> <p>9 A. He's a lawyer.</p> <p>10 Q. But as counsel for who?</p> <p>11 A. I don't know what hat he may have been wearing</p> <p>12 at that moment. That's a question for him, he's</p> <p>13 counsel.</p> <p>14 Q. We know he was counsel for Dominion Investment</p> <p>15 Group.</p> <p>16 A. Okay.</p> <p>17 Q. Was your choice of Rock Solid Investment, did</p> <p>18 that have anything to do with the business of Dominion</p> <p>19 Investment Group?</p> <p>20 A. That would be a question for him.</p> <p>21 Q. Did you intend for it to be part of the</p> <p>22 Dominion Investment Group business?</p> <p>23 A. Any of my intent that would have been expressed</p> <p>24 to him would be privileged.</p> <p>25 Q. Sir, the communications you have with him are</p>

<p style="text-align: right;">Page 46</p> <p>1 privileged.</p> <p>2 A. Yes.</p> <p>3 Q. Your intent is not, what you want to do.</p> <p>4 A. I'm sorry, I don't recall my intent at that</p> <p>5 moment.</p> <p>6 Q. When you first came up with the idea for Rock</p> <p>7 Solid Investment, did you talk about it with anyone</p> <p>8 besides William J. Seabolt?</p> <p>9 A. I don't recall.</p> <p>10 Q. And specifically what did you talk to William</p> <p>11 J. Seabolt about that involved Rock Solid Investment?</p> <p>12 MR. TERRY: Objection, that would be</p> <p>13 privileged. You're asking Mr. Bank about his</p> <p>14 communications with an attorney.</p> <p>15 MR. BARNARD: There's some real questions about</p> <p>16 what capacity Mr. Seabolt was in. Are you</p> <p>17 instructing him not to answer?</p> <p>18 MR. TERRY: I'm instructing Mr. Bank not to</p> <p>19 answer any questions related to attorney-client</p> <p>20 privilege.</p> <p>21 MR. BARNARD: So you're instructing him not to</p> <p>22 answer that particular question?</p> <p>23 MR. TERRY: What question are you referring to?</p> <p>24 MR. BARNARD: Can you read that back.</p> <p>25 (Thereupon, the court read back the last</p>	<p style="text-align: right;">Page 47</p> <p>1 question.)</p> <p>2 MR. TERRY: That is correct, I am instructing</p> <p>3 Mr. Bank not to answer that question.</p> <p>4 BY MR. BARNARD:</p> <p>5 Q. Did you talk about when you first came up with</p> <p>6 the idea with anybody other than Mr. William J.</p> <p>7 Seabolt?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you have any documents that would reflect</p> <p>10 when you first came up with the idea?</p> <p>11 A. Outside of my counsel, I don't recall.</p> <p>12 Q. Do you have any e-mails?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Let's talk about your business. Do you have</p> <p>15 any other business e-mail address, I think we talked</p> <p>16 about this before, besides Dominion Investment Group that</p> <p>17 you use for business e-mails?</p> <p>18 A. Not that I recall.</p> <p>19 Q. You understand the question that we asked about</p> <p>20 documents that you had, those were directed to electronic</p> <p>21 documents as well as paper documents, correct?</p> <p>22 A. You're asking me what I understood?</p> <p>23 Q. Yes.</p> <p>24 A. I don't know. You need to ask my attorney what</p> <p>25 he understood.</p>
<p style="text-align: right;">Page 48</p> <p>1 Q. Did you do any search of your e-mails to answer</p> <p>2 any of the questions that were asked here?</p> <p>3 A. I did whatever was asked of me.</p> <p>4 Q. Specifically on Exhibit 3 in terms of answering</p> <p>5 these questions that are in Exhibit 3, do you recall</p> <p>6 doing any searches of electronic documents?</p> <p>7 A. I did whatever the questions asked me to do and</p> <p>8 counsel directed me to do.</p> <p>9 Q. I'm not asking you what instructions you think</p> <p>10 you were following I'm asking you did you do a search?</p> <p>11 A. If that was the instructions in there, then I</p> <p>12 must have.</p> <p>13 Q. You must have but you don't recall specifically</p> <p>14 doing a search?</p> <p>15 A. I do a lot of things every day.</p> <p>16 Q. My question is do you have any specific</p> <p>17 recollection of doing any searches of electronic</p> <p>18 documents to answer any of the questions that were</p> <p>19 posed --</p> <p>20 A. If it was asked --</p> <p>21 Q. You have to let me finish because she --</p> <p>22 A. She can plug it in at the end when you get</p> <p>23 done.</p> <p>24 Q. I'm trying to make her job easier. The whole</p> <p>25 purpose of this proceeding is so that somebody can read</p>	<p style="text-align: right;">Page 49</p> <p>1 what we talked about today and understand what happened.</p> <p>2 A. Is that a question or am I being lectured</p> <p>3 again?</p> <p>4 Q. You're being told what the purpose of this is.</p> <p>5 A. I don't need to be told.</p> <p>6 Q. Okay. Why I'm here is to try to be helpful</p> <p>7 to the person who will read this afterwards.</p> <p>8 A. Am I being lectured again?</p> <p>9 Maybe you should file an amendment and then you</p> <p>10 can tell them.</p> <p>11 Q. I'm telling you why I'm here.</p> <p>12 A. I didn't ask you why you were here.</p> <p>13 Q. If it is not your choice to be helpful today --</p> <p>14 A. I'm answering your questions, that's what I'm</p> <p>15 doing.</p> <p>16 Q. Are you?</p> <p>17 A. I am.</p> <p>18 Q. So you were deposed earlier?</p> <p>19 A. Here we go.</p> <p>20 Q. You don't recall anything whatsoever about why</p> <p>21 you sat --</p> <p>22 A. At this moment I don't.</p> <p>23 Q. You don't know the name of any of the parties</p> <p>24 involved?</p> <p>25 A. Asked and answered.</p>

<p>Page 50</p> <p>1 Q. I didn't ask that question earlier.</p> <p>2 A. I don't recall at this moment.</p> <p>3 Q. You don't know whether it was a car crash or</p> <p>4 someone was burned alive or whether somebody had a</p> <p>5 property dispute? You don't know anything about why you</p> <p>6 were deposited before?</p> <p>7 A. I don't recall right at this moment.</p> <p>8 Q. Going back to Exhibit No. 3, do you recall</p> <p>9 doing any document searching of any kind to answer the</p> <p>10 questions that were posed in Exhibit 3?</p> <p>11 A. Again, I answered that but for fun we'll do it</p> <p>12 again. I did whatever was required for me to do.</p> <p>13 Q. When did you do that?</p> <p>14 A. When it was asked of me to be done.</p> <p>15 Q. Do you have any more specific information?</p> <p>16 A. At least by the deadline that my attorney filed</p> <p>17 that.</p> <p>18 Q. If someone were to have questions about whether</p> <p>19 or not any search was actually done, how would you go</p> <p>20 about proving that a search was actually done to answer</p> <p>21 any of the questions here?</p> <p>22 A. I opine as to how one would know that.</p> <p>23 Q. Do you have any more specific information?</p> <p>24 A. No.</p> <p>25 Q. Do you have an assistant?</p>	<p>Page 51</p> <p>1 A. Yes.</p> <p>2 Q. Who is that person?</p> <p>3 A. Angela Moss.</p> <p>4 Q. Did you ask Angela Moss to help search for</p> <p>5 documents, including the electronic documents, to answer</p> <p>6 these questions posed in Exhibit 3?</p> <p>7 A. No.</p> <p>8 Q. Did you ask anybody else to help with that</p> <p>9 other than your attorney?</p> <p>10 A. Yes.</p> <p>11 Q. Who was that?</p> <p>12 A. Raeann Gibson.</p> <p>13 Q. What did you ask Raeann Gibson?</p> <p>14 A. The questions that were posed to me in that</p> <p>15 document.</p> <p>16 Q. Specifically, do you remember what you asked</p> <p>17 Raeann Gibson about?</p> <p>18 A. No, I don't, I don't have that flashed in my</p> <p>19 memory.</p> <p>20 Q. Why did you ask Raeann Gibson any questions?</p> <p>21 A. I don't understand.</p> <p>22 Q. Is there some particular knowledge that she has</p> <p>23 that you would need to ask her about that you wouldn't</p> <p>24 know yourself?</p> <p>25 A. You mentioned procuring documents and</p>
<p>Page 52</p> <p>1 e-mails.</p> <p>2 Q. Correct.</p> <p>3 A. Yes.</p> <p>4 Q. Why would she have more or less knowledge about</p> <p>5 any of these questions?</p> <p>6 A. I'm sorry, I didn't mean to mislead you. I'm</p> <p>7 not saying she did have more or less knowledge.</p> <p>8 Q. Did she provide you any information?</p> <p>9 A. If she did, it was in those documents.</p> <p>10 Q. Do you recall what the information was that she</p> <p>11 provided you?</p> <p>12 A. Again, it would have been disclosed in there.</p> <p>13 Q. And I get to ask questions about those</p> <p>14 specifically, not just the information that's in here but</p> <p>15 where it came from, and so I'm asking, do you recall</p> <p>16 anything about what Raeann Gibson provided to you?</p> <p>17 A. Anything provided was provided to you.</p> <p>18 Q. But this doesn't say what came from Raeann</p> <p>19 Gibson and what came from you so I'm trying to figure out</p> <p>20 what came from Raeann Gibson.</p> <p>21 A. If she assisted me in any way, it's turned over</p> <p>22 to you.</p> <p>23 Q. Is there any other information you can provide</p> <p>24 me about what she provided to you?</p> <p>25 A. Was that the end of the question?</p>	<p>Page 53</p> <p>1 Q. Yes.</p> <p>2 A. I did not.</p> <p>3 Q. So I would need to ask Raeann if I needed to</p> <p>4 find out what information she provided?</p> <p>5 A. Yes.</p> <p>6 Q. Specifically talking about your -- and again,</p> <p>7 number four in Exhibit 3 is the selection adoption of the</p> <p>8 Rock Solid Investment mark.</p> <p>9 Do you recall searching any particular</p> <p>10 documents to try to find out when you made that</p> <p>11 decision?</p> <p>12 A. I'm sorry, which question was that?</p> <p>13 Q. Number four, talking about when you first came</p> <p>14 up with the idea and my question is just related to the</p> <p>15 timing.</p> <p>16 A. Okay.</p> <p>17 Q. Do you recall searching for any documents to</p> <p>18 try to figure out when exactly you came up with that?</p> <p>19 A. I'm confused, searching documents and when I</p> <p>20 came up with it?</p> <p>21 Q. We asked for all documents referring to your</p> <p>22 selection and adoption of the Rock Solid Investment mark,</p> <p>23 and what I'm asking is do you remember looking at any</p> <p>24 specific documents to try to figure out when you first</p> <p>25 came up with that.</p>

<p style="text-align: right;">Page 54</p> <p>1 A. No, I was on my bike.</p> <p>2 Q. I'm assuming some time after your bike you may</p> <p>3 have e-mailed somebody, called somebody to move the</p> <p>4 process forward, and so what I'm asking is in terms of</p> <p>5 nailing down that timing, do you recall doing any search</p> <p>6 of the documents to try to figure out when exactly you</p> <p>7 came up with that?</p> <p>8 A. I'm confused again, searching a document for</p> <p>9 the idea I came up with on my bike. I don't understand</p> <p>10 the question.</p> <p>11 Q. Obviously there's not going to be any documents</p> <p>12 created when you were on your bike.</p> <p>13 A. Correct.</p> <p>14 Q. Unless you pulled over to the side of the road</p> <p>15 and texted somebody, hey, I got that great idea, maybe I</p> <p>16 want to get a trademark on this.</p> <p>17 What I'm trying to figure out, did you look</p> <p>18 any place like that in texts or e-mails or paper</p> <p>19 documents to try to find out when exactly you came up</p> <p>20 with the idea?</p> <p>21 A. To figure out when I came up with it, no.</p> <p>22 Q. Do you know exactly when you came up with the</p> <p>23 idea?</p> <p>24 A. Yes, I was on my bike.</p> <p>25 Q. But do you know when, like the specific date?</p>	<p style="text-align: right;">Page 55</p> <p>1 A. I don't.</p> <p>2 Q. Is there any way to try to narrow that</p> <p>3 timing?</p> <p>4 A. Yes.</p> <p>5 Q. How would one do that?</p> <p>6 A. You could depose my attorney because I called</p> <p>7 him from my bike.</p> <p>8 Q. I got it. I'm not going to depose your</p> <p>9 attorney I don't think.</p> <p>10 A. That would be fun.</p> <p>11 Q. I've done it before.</p> <p>12 A. I think you should.</p> <p>13 Q. So you called him from your bike though?</p> <p>14 A. I did.</p> <p>15 Q. Now we talked about Dominion Diamonds. Did</p> <p>16 Dominion Diamonds exist at that point?</p> <p>17 A. As an LLC I don't believe it did but that would</p> <p>18 be in state records.</p> <p>19 Q. In terms of this name you had come up with</p> <p>20 while riding your bike, was there already a business that</p> <p>21 you had that you wanted to use that name for?</p> <p>22 A. Yes.</p> <p>23 Q. And was that Dominion Diamonds?</p> <p>24 A. I don't know that I had thought of Dominion</p> <p>25 Diamonds at that time that moment. I don't recall the</p>
<p style="text-align: right;">Page 56</p> <p>1 time line.</p> <p>2 Q. Does Dominion Diamonds have any affiliation</p> <p>3 with Dominion Investment Group?</p> <p>4 A. Meaning?</p> <p>5 Q. Any kind of a relationship whatsoever in terms</p> <p>6 of being a subsidiary or ownership? It can mean a lot of</p> <p>7 things.</p> <p>8 A. If it means a lot of things, I'll say yes</p> <p>9 then.</p> <p>10 Q. What is the relationship between Dominion</p> <p>11 Diamonds and Dominion Investment?</p> <p>12 A. It's an associated company.</p> <p>13 Q. Does either company own a piece of the other</p> <p>14 one?</p> <p>15 A. I don't believe so.</p> <p>16 Q. When you say they're associated, why do you say</p> <p>17 that?</p> <p>18 A. Using one of the words you used, some common</p> <p>19 ownership.</p> <p>20 Q. Common ownership, okay. And I know you have</p> <p>21 ownership in both companies?</p> <p>22 A. Yes.</p> <p>23 Q. Did anybody else have ownership in both</p> <p>24 companies?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Who would know the answer?</p> <p>2 A. I'm sorry, Raeann Gibson probably does but I</p> <p>3 don't know.</p> <p>4 Q. How would one go about finding the answer to</p> <p>5 that question?</p> <p>6 A. Going to Mr. Seabolt.</p> <p>7 Q. Is there any other way other than asking Mr.</p> <p>8 Seabolt who owns pieces of both companies?</p> <p>9 A. He has all those documents.</p> <p>10 Q. Looking at Exhibit No. 3 again, if you'll go to</p> <p>11 the third page, this question asks you about the</p> <p>12 opposer's family of marks, Prudential's family of marks.</p> <p>13 Were you aware of Prudential's use of The Rock</p> <p>14 family of marks before you filed your trademark</p> <p>15 application?</p> <p>16 A. Are you directing he me to a question? Are you</p> <p>17 directing me to something here?</p> <p>18 Q. We're going to talk about this document but,</p> <p>19 yeah, let me back up. That's fair.</p> <p>20 At the time that you came up with Rock Solid</p> <p>21 Investments, were you aware of the fact that Prudential</p> <p>22 used The Rock to advertise its services?</p> <p>23 A. I don't recall that I was aware of that.</p> <p>24 Q. When is the first time you remember hearing</p> <p>25 Prudential referred to as The Rock?</p>

<p style="text-align: right;">Page 58</p> <p>1 A. I think it was when your firm sent a letter to 2 my attorney.</p> <p>3 Q. So you have no recollection that Prudential was 4 ever referred to as The Rock prior to this dispute?</p> <p>5 A. As a recollection, I've been in the industry my 6 whole life so, as you spouted earlier off the record that 7 that's been a moniker since some ungodly date, I may have 8 heard it, I don't recall though. You asked if I recalled 9 it, I don't.</p> <p>10 Q. Had you ever run into Prudential using Rock 11 Solid in its business prior to the time that you came up 12 with Rock Solid Investment?</p> <p>13 A. No.</p> <p>14 Q. Diamonds are rocks, right?</p> <p>15 A. I believe so. I'm not a geologist but...</p> <p>16 Q. And Dominion Diamond, LLC, is going to help 17 people with investments, correct?</p> <p>18 A. Investing in diamonds.</p> <p>19 Q. So Rock Solid Investment refers to what 20 Dominion Diamond does, it directly describes it, 21 correct?</p> <p>22 A. It would be a play on what it is, correct.</p> <p>23 Q. So going back to Exhibit 3, that question 24 number seven, this asks about all documents referring to 25 any acquired knowledge of the applicant or any research</p>	<p style="text-align: right;">Page 59</p> <p>1 performed by on behalf of the applicant on opposer's 2 family mark. What is your understanding of that 3 question?</p> <p>4 A. You're asking me if I understand the question?</p> <p>5 Q. Yes.</p> <p>6 A. I guess I do.</p> <p>7 Q. What does it mean to you?</p> <p>8 A. Just exactly what it says.</p> <p>9 Q. It says the only documents that you have there 10 would be documents that you shared with your attorney. 11 Do you recall --</p> <p>12 A. Is that a question?</p> <p>13 Q. I'm asking you --</p> <p>14 A. You made a statement.</p> <p>15 Q. It says there's an objection here to the extent 16 it asks -- I'm sorry, I did misstate this. Let me ask 17 you a given question.</p> <p>18 Do you recall exchanging any documents about 19 your attorney about this particular, it's a yes or no 20 question. I'm not asking you what the content was, I'm 21 just asking you whether or not there were any -- 22 actually, let me ask a different question.</p> <p>23 I'm assuming you guys have documents back and 24 forth and by that I mean you and your attorney.</p> <p>25 A. Are you asking him the question or me?</p>
<p style="text-align: right;">Page 60</p> <p>1 Q. I'm asking you. I'm telling you I'm assuming 2 that there are documents back and forth. Roughly how 3 many documents are we talking about?</p> <p>4 A. You're asking how many documents there are 5 between me and my attorney?</p> <p>6 Q. That involve the Rock Solid Investment issue.</p> <p>7 A. Involving this issue why we're here today?</p> <p>8 Q. Exactly.</p> <p>9 A. I would have no idea how voluminous that may 10 be.</p> <p>11 Q. Do you remember searching through that 12 though?</p> <p>13 A. I recall engaging counsel to put together the 14 application.</p> <p>15 Q. Let's talk about something a little more 16 specific. If you go to number ten, there's a request 17 that that asks for documents relating to or disclosing 18 the manner in which you distribute promotional materials 19 that advertise or promote the services stated in the 20 services description of the application for Rock Solid 21 Investment mark, and it says there's an objection there 22 that it seeks confidential and proprietary information, 23 do you see that?</p> <p>24 A. I see it.</p> <p>25 Q. Are there any confidential, promotional</p>	<p style="text-align: right;">Page 61</p> <p>1 materials that Dominion Diamonds distributes?</p> <p>2 A. What's confidential?</p> <p>3 Q. Exactly.</p> <p>4 A. I'm asking you. You asked me the question so 5 what do you mean by it?</p> <p>6 Q. It's in your response so I'm asking does 7 Dominion Diamonds distribute any confidential advertising 8 materials?</p> <p>9 A. You're asking to get into my proprietary 10 information, so with respect to your question, yes it 11 does.</p> <p>12 Q. I didn't ask about proprietary information, I 13 asked about confidential.</p> <p>14 A. It is confidential.</p> <p>15 Q. Let's talk about both of those things. 16 Confidential is secret, proprietary means you own it.</p> <p>17 A. That's your definition.</p> <p>18 Q. Let's talk about the secret stuff. Do you have 19 any secret advertising materials?</p> <p>20 A. I have confidential material that's none of 21 your business, does that help?</p> <p>22 Q. Do you have advertisement materials that are 23 confidential?</p> <p>24 A. Again, my definition of meaning that it's not 25 something that's of the Prudential's business, yes. If</p>

<p style="text-align: right;">Page 62</p> <p>1 you mean does it have some sort of a clearance from the 2 U.S. government, I don't think it does.</p> <p>3 Q. What kinds of promotional materials does 4 Dominion Diamonds have?</p> <p>5 A. All kinds of materials including what we gave 6 to you.</p> <p>7 Q. Does it have any other materials that describe 8 the scope of the business?</p> <p>9 A. I'm not sure I understand the scope of the 10 business.</p> <p>11 Q. What Dominion Diamonds does, do you have any 12 promotional materials besides what you provided to us 13 that talk about what Dominion Diamonds does for people?</p> <p>14 A. Outside of that, I'm not aware that we have 15 anything outside of that.</p> <p>16 Q. Do you consider the materials that you sent to 17 Prudential to be confidential?</p> <p>18 A. You want me to define the word confidential 19 again?</p> <p>20 Q. Just the advertising materials that you sent to 21 us to answer this particular request, do you consider 22 those materials to be confidential?</p> <p>23 A. In the sense that I don't want someone to 24 duplicate them, yes, in the sense of protecting the 25 government, no.</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. So have you distributed any of these 2 advertising materials to potential customers?</p> <p>3 A. Yes.</p> <p>4 Q. How do you do that?</p> <p>5 A. Via mail, e-mail, physical handing it to 6 them.</p> <p>7 Q. Are they available on a website anywhere?</p> <p>8 A. I'm not aware.</p> <p>9 Q. Do you have a website for Dominion Diamonds, 10 LLC?</p> <p>11 A. I believe they do have a website.</p> <p>12 Q. In terms of the distribution of documents by 13 mail, is that to existing clients or to potential 14 customers too?</p> <p>15 A. I don't know but I would assume both.</p> <p>16 Q. Who would know the answer to that question?</p> <p>17 A. Whoever mailed it.</p> <p>18 Q. Who mails things for Dominion Diamonds, LLC?</p> <p>19 A. It could be a number of people.</p> <p>20 Q. Let's talk about, who are the employees of 21 Dominion Diamonds, LLC?</p> <p>22 A. I don't know if they have an employee.</p> <p>23 Q. Who does work for Dominion Diamonds, LLC?</p> <p>24 A. A lot of people.</p> <p>25 Q. Who is in marketing for Dominion Diamonds,</p>
<p style="text-align: right;">Page 64</p> <p>1 LLC?</p> <p>2 A. There are several people.</p> <p>3 Q. Who are they?</p> <p>4 A. Catrina Davis. Let me try to understand. You 5 mean they work for Dominion Diamonds?</p> <p>6 Q. That they do any kind of work for, it doesn't 7 necessarily mean that they're an employee or maybe 8 they're an independent contractor.</p> <p>9 A. Somebody who's done some work?</p> <p>10 Q. Exactly.</p> <p>11 A. I couldn't even begin to list them, postcard 12 companies, mailing houses.</p> <p>13 Q. In terms of the specific people who hire them 14 and get the work to those people, it sounds like Catrina 15 Davis does marketing for Dominion Diamonds, does anybody 16 else?</p> <p>17 A. She would be the point person.</p> <p>18 Q. In terms of the e-mail, can you give me an 19 example of what kind of e-mails would have information 20 about the services that Dominion Diamonds --</p> <p>21 A. I think that was provided.</p> <p>22 Q. You think copies of e-mails were provided to 23 us?</p> <p>24 A. If there was one, it was provided, if not, it 25 would be on just that, what the company does.</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Was there any kind of a search done of all the 2 marketing documents that Dominion Diamonds offers to the 3 public that talk about its services?</p> <p>4 A. A search, a search for what?</p> <p>5 Q. A search for documents.</p> <p>6 A. Whatever was requested here was absolutely 7 done, yes.</p> <p>8 Q. Who did that search?</p> <p>9 A. That would have been myself --</p> <p>10 Q. Do you remember what you did?</p> <p>11 A. -- and/or Raeann Gibson. I did exactly what 12 the document asked me to do.</p> <p>13 Q. Do you remember using search terms on your 14 e-mails to find out whether there are any documents that 15 respond to the questions in Exhibit 3?</p> <p>16 A. I would have done whoever the document asked me 17 to do.</p> <p>18 Q. And again, I'm asking you, did you do a 19 search -- do you have any specific recollection of 20 searching for, for instance, the phrase Rock Solid?</p> <p>21 A. You're asking several questions. What's the 22 question?</p> <p>23 Q. Do you have any recollection of ever searching 24 through your e-mails for the phrase Rock Solid to find 25 out what you have?</p>

<p style="text-align: right;">Page 66</p> <p>1 A. I would have done whatever was in this document 2 and counsel instructed me to do.</p> <p>3 Q. I understand you're saying you think that you 4 did whatever you were instructed --</p> <p>5 A. I'm not telling you I think I did, I know I 6 did. I'm not telling you what I thought I did, I'm 7 telling you what it is I did.</p> <p>8 Q. Did you do a search for Rock Solid?</p> <p>9 A. I did whatever the documents told me to.</p> <p>10 Q. When did you do that?</p> <p>11 A. Before that document was turned over to you and 12 filed.</p> <p>13 Q. Okay. We talked about advertising materials. 14 I understand that you -- that there are advertising 15 materials that you own, I understand the proprietary part 16 of that.</p> <p>17 Is there anything else about the nature of 18 Dominion Diamond's business that is confidential?</p> <p>19 Do you have a customer sign a confidentiality 20 agreement?</p> <p>21 A. I don't know if they do have them sign one.</p> <p>22 Q. Who would know the answer to that question?</p> <p>23 A. Whoever may have handled that. It might be 24 Catrina Davis but I'm not aware.</p> <p>25 Q. Other than the materials that you provided to</p>	<p style="text-align: right;">Page 67</p> <p>1 us, are there other promotional materials for Dominion 2 Diamonds?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Does Dominion Diamonds have an office, like a 5 brick and mortar office?</p> <p>6 A. No. Would my office be considered their 7 office? It might be, yes.</p> <p>8 Q. Where is your office?</p> <p>9 A. Down the street.</p> <p>10 Q. Does it have signage on it?</p> <p>11 A. Yes.</p> <p>12 Q. What does it say?</p> <p>13 A. It says Dominion Investment Group.</p> <p>14 Q. Roughly how many owners are there of Dominion 15 Investment Group at this time?</p> <p>16 A. I don't know.</p> <p>17 Q. Are there more than ten?</p> <p>18 A. I don't know. I answered that earlier.</p> <p>19 Q. But you don't know whether there's more than 20 ten owners or not?</p> <p>21 A. I haven't had a revelation since we began 22 this.</p> <p>23 Q. And I believe it was your testimony that 24 Dominion Investment Group is not going to be using Rock 25 Solid Investment?</p>
<p style="text-align: right;">Page 68</p> <p>1 A. I didn't say that they would not.</p> <p>2 Q. Or that they are not right now.</p> <p>3 A. To my knowledge, they are not.</p> <p>4 Q. Okay. Please go to number 14. Have you 5 advertised Rock Solid Investment as a trademark 6 anywhere?</p> <p>7 A. I believe we have.</p> <p>8 Q. Where have you advertised it?</p> <p>9 A. It's in whatever was provided to you.</p> <p>10 Q. You're saying the documents that were provided 11 to me, that that is the sum and total of all the 12 advertisements that have gone out that have used Rock 13 Solid Investment?</p> <p>14 A. Probably to that point but, again, just as it 15 says there, it's overbroad. We have people all over the 16 country.</p> <p>17 Q. Who are the people all over the country?</p> <p>18 A. I don't recall their names. I couldn't name 19 them if I had to.</p> <p>20 Q. You said we have people all over the country.</p> <p>21 A. Yes, that's what I said.</p> <p>22 Q. Who is the we there?</p> <p>23 A. Our collective group of companies.</p> <p>24 Q. And when you say our collective group of 25 companies?</p>	<p style="text-align: right;">Page 69</p> <p>1 A. I'm referring to Dominion in the collective 2 sense.</p> <p>3 Q. Dominion Investment Group and Dominion Diamonds 4 and other companies?</p> <p>5 A. Yes.</p> <p>6 Q. What are all those companies?</p> <p>7 A. I don't know them off the top of my head. You 8 could go to our website.</p> <p>9 Q. Are all those people going to be able to use 10 Rock Solid investment with whatever part of their 11 business that they want to use it for?</p> <p>12 A. They all, who is they all?</p> <p>13 Q. All these people who are all over the country.</p> <p>14 A. Are we talking about representatives in the 15 field? That's what I'm trying to understand, who they 16 all are.</p> <p>17 Q. I'm trying to understand that too and it's not 18 my company. You said we as all the Dominion Group of 19 companies have people all over the country.</p> <p>20 Are all these people going to be able to use 21 Rock Solid Investments to describe the work they're doing 22 for the group of companies?</p> <p>23 A. They would be able to use it in reference to 24 the investment opportunity in Dominion Diamonds 25 currently.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. Is this a sales force you're talking about the</p> <p>2 people all over the country? What do these people do?</p> <p>3 A. Sales force and others.</p> <p>4 Q. How many people are we talking about?</p> <p>5 A. I have no idea.</p> <p>6 Q. Is it more than 100?</p> <p>7 A. Yes.</p> <p>8 Q. Is it more than 1,000?</p> <p>9 A. Probably not.</p> <p>10 Q. But you can't give me any more specificity</p> <p>11 other than more than 100, less than 1,000?</p> <p>12 A. Less than 250.</p> <p>13 Q. And you said all over the country. Are they in</p> <p>14 every state?</p> <p>15 A. I don't know. I think we answered that</p> <p>16 somewhere in here.</p> <p>17 Q. Is your business or is the Dominion group of</p> <p>18 companies, is the business focused in any particular</p> <p>19 geographical area?</p> <p>20 A. No.</p> <p>21 Q. Do you have people in one state that work for</p> <p>22 the Dominion group of companies that contact people in</p> <p>23 other states?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you know whether --</p>	<p style="text-align: right;">Page 71</p> <p>1 A. I would say yes because I do.</p> <p>2 Q. Okay. In terms of investment opportunities, is</p> <p>3 it a regular practice, as far as you're aware, for people</p> <p>4 to offer those to potential customers in any state that</p> <p>5 they want to?</p> <p>6 A. Offer what?</p> <p>7 Q. For the Dominion group of companies.</p> <p>8 A. Offer what across the state?</p> <p>9 Q. In terms of the these people who are all in the</p> <p>10 company in the sales force, are they restricted to only</p> <p>11 selling in their state or can they sell or offer</p> <p>12 different kinds of services or products to people in</p> <p>13 other states?</p> <p>14 A. Which service are you referring to?</p> <p>15 Q. Any services.</p> <p>16 A. That would depend on the regulatory</p> <p>17 requirements on them.</p> <p>18 Q. Do you know as to any of the services, are they</p> <p>19 being offered across state lines?</p> <p>20 A. Which services?</p> <p>21 Q. Again, any of them.</p> <p>22 A. It would be correct to assume they are.</p> <p>23 Q. Now in Exhibit No. 3 there are several of these</p> <p>24 exhibits that say the request is overbroad, unduly</p> <p>25 burdensome.</p>
<p style="text-align: right;">Page 72</p> <p>1 What burdens were did you encounter in trying</p> <p>2 to --</p> <p>3 A. What do you want me to look at?</p> <p>4 Q. It's several of these.</p> <p>5 A. Can you narrow it down?</p> <p>6 Q. I'm going to ask you generally first and then</p> <p>7 we can look at specific but generally speaking there are</p> <p>8 requests in here that said the requests are overbroad and</p> <p>9 unduly burdensome.</p> <p>10 What burdens did you run into in terms of</p> <p>11 answering these questions?</p> <p>12 A. These were generally overburdensome.</p> <p>13 Q. How so?</p> <p>14 A. You want me to get specific?</p> <p>15 Q. Yes.</p> <p>16 A. You asked me a general question so I generally</p> <p>17 answered it. It's generally overburdensome.</p> <p>18 Q. For example, were there any of these requests</p> <p>19 that generated more than 1,000 documents when you tried</p> <p>20 to go search for something?</p> <p>21 A. Which one are you talking about?</p> <p>22 Q. I'm asking for any of them.</p> <p>23 A. Generally, it was overburdensome.</p> <p>24 Q. My question was were there any of these</p> <p>25 requests that we made where you found that there were</p>	<p style="text-align: right;">Page 73</p> <p>1 more than 1,000 documents that would respond to it?</p> <p>2 A. I don't recall.</p> <p>3 Q. Do you recall any specific burdens that you ran</p> <p>4 into in terms of trying o answer these questions?</p> <p>5 A. Is it still under the general question?</p> <p>6 Q. Yes.</p> <p>7 A. Then it's generally burdensome.</p> <p>8 Q. But do you recall any specific burdens?</p> <p>9 A. Can you get me to a specific question?</p> <p>10 Q. We can do that but first I'm asking do you</p> <p>11 recall any specific burden --</p> <p>12 A. They were generally overburdensome.</p> <p>13 Q. You have no specific information?</p> <p>14 A. Am I not coming across well?</p> <p>15 Q. I'm just asking you whether you want to offer</p> <p>16 any --</p> <p>17 A. Asked and answered, but if you want to get into</p> <p>18 specifics, let's do it.</p> <p>19 Q. We talked about documents relating to the first</p> <p>20 time that you wanted to use Rock Solid Investment and it</p> <p>21 says here that you don't want to provide documents</p> <p>22 because the request is overbroad and unduly burdensome.</p> <p>23 A. Which one are we on?</p> <p>24 Q. This is number 14.</p> <p>25 A. Oh, okay.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. My question is what was the burden. 2 We received a small amount of documents. Were 3 there other documents that were going to be too hard to 4 search through? 5 A. For example, again, you have geographic areas. 6 As I mentioned, we're all over the country, individual 7 retail stores, it's absolutely overburdensome. 8 Q. Do you remember when the first time was that 9 you used the Rock Solid Investment mark? 10 A. I do not recall. 11 Q. Do you remember the first time the Rock Solid 12 Investment mark was ever advertised to the public? 13 A. I do not recall. 14 Q. How would you go about finding out the answer 15 to that question? 16 A. I would probably have to talk to counsel. 17 Q. Is there anybody else that you would talk to? 18 A. No. I did everything at the direction of 19 counsel. 20 Q. But in terms of -- I'm assuming your counsel 21 does not actually work on the sending out of the 22 advertisements. 23 Is there anybody besides Catrina Davis who does 24 that? 25 A. Yes.</p>	<p style="text-align: right;">Page 75</p> <p>1 Q. Who is that? 2 A. Anybody at the company could. 3 Q. Anybody at the company could send out 4 advertisements that would have Rock Solid Investment on 5 them? 6 A. Are we talking about the diamond company? 7 Q. Yes. 8 A. Yes, anyone could. 9 Q. When you say anyone at the company, do you mean 10 anybody that works for Dominion Diamonds, LLC, or anybody 11 who works with all the affiliated companies? 12 A. If anybody is connected with Dominion Diamonds 13 or they work internally at Dominion. 14 Q. Was a request made to all these people to find 15 out whether or not they sent out any advertisements that 16 use Rock Solid Investment? 17 A. Everything we did, because we have control of 18 their computers, was done by Raeann and I and it was 19 provided for you in these documents or may have been 20 overburdensome because of sheer size and nature of 21 them. 22 Q. Do you recall you and Raeann Gibson ever doing 23 a search for Rock Solid Investments in all the e-mails? 24 A. I did whatever these documents requested me to 25 do.</p>
<p style="text-align: right;">Page 76</p> <p>1 Q. I'm asking you specifically, do you remember 2 doing that search? 3 A. I did it. 4 Q. You did it? 5 A. We did what these documents asked us to do. 6 Q. But do you remember doing a search for Rock 7 Solid Investments in your e-mails? 8 A. Whatever this requests, we did. 9 Q. Number 17 on here talks about all documents and 10 records referring to, relating to or documenting the 11 activities undertaken by you in preparation to use the 12 Rock Solid Investment mark, and it says here that you 13 object to the extent that the request is overbroad and 14 unduly burdensome. 15 My question is what burden did you encounter 16 responding to this question for documents about you 17 getting ready to use this trademark? 18 A. It's overbroad and unduly burdensome, not to 19 mention irrelevant. 20 Q. What was the burden? 21 A. The burden is answering and responding to 22 that. 23 Q. Specifically what -- 24 A. Specifically that request. 25 Q. What was the burden?</p>	<p style="text-align: right;">Page 77</p> <p>1 A. I just answered you. 2 Q. Did you encounter a large number of documents 3 in trying to respond to this question? 4 A. It's overbroad and irrelevant. 5 Q. Let's focus on unduly burdensome and not 6 overbroad. 7 A. For all matters. 8 Q. In terms of unduly burdensome, what burden did 9 you encounter in trying to gather the documents? 10 A. Responding to that question. 11 Q. Do you have any other answer besides that? 12 A. No. I thought we did a good job responding 13 to you right there. 14 Q. It talks about documents that -- again, we're 15 talking about documents that would reflect your 16 activities in terms of getting ready to use this mark. 17 You also say here that that would request confidential 18 and proprietary information. 19 A. Correct. 20 Q. Other than the information you shared with your 21 attorney, is there any other confidential information 22 you're aware of? 23 A. Yes. 24 Q. What is that? 25 A. All of our corporate activities.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. All of your corporate activities are 2 confidential?</p> <p>3 A. Sure.</p> <p>4 Q. If Prudential were willing to enter into a 5 protective order that would ensure that these documents 6 were kept confidential, are there other documents you 7 would send to us at that point?</p> <p>8 A. I don't know what I would do. That would be a 9 question for counsel.</p> <p>10 Q. Are there any documents that you withheld here 11 because you thought they were proprietary or 12 confidential?</p> <p>13 A. We, again, found it overbroad, unduly 14 burdensome and it's answered right there.</p> <p>15 Q. Again, do you remember whether any documents 16 were withheld?</p> <p>17 A. No, but, again, we found it overbroad and 18 burdensome.</p> <p>19 Q. And again, different question.</p> <p>20 A. It's not a different question.</p> <p>21 Q. Did you withhold any documents?</p> <p>22 A. Asked and answered.</p> <p>23 Q. That's your best response?</p> <p>24 I'm asking, is that your best and most helpful 25 response to the question of whether you withheld</p>	<p style="text-align: right;">Page 79</p> <p>1 documents or not?</p> <p>2 A. It's answered.</p> <p>3 Q. The next on number 18 we asked for documents 4 concerning any variations of the Rock Solid Investment 5 mark that you're using and it also says that you object 6 to that because it was unduly burdensome.</p> <p>7 What burden did you encounter in terms of 8 trying to find documents that would show the different 9 variations of the Rock Solid Investment mark?</p> <p>10 A. It was overbroad.</p> <p>11 Q. Was there any burden?</p> <p>12 A. Yes.</p> <p>13 Q. What was the burden?</p> <p>14 A. This whole process.</p> <p>15 Q. By this whole process, I'm not sure I 16 understand what you mean.</p> <p>17 A. Just that.</p> <p>18 Q. Which process?</p> <p>19 A. This is overbroad.</p> <p>20 Q. When you say this, you're pointing at the 21 document?</p> <p>22 A. I'm referring to your question. You asked me 23 about the question, I answered the question.</p> <p>24 Q. By the question, do you mean the request number 25 18 that's on this document?</p>
<p style="text-align: right;">Page 80</p> <p>1 A. Yes. Yeah.</p> <p>2 Q. So in terms of 18, you're saying that it's a 3 burden to respond to that?</p> <p>4 A. No. No, I responded. I gave you the response. 5 I didn't say it was a burden to respond.</p> <p>6 Q. It says here that you object because the 7 request is unduly burdensome.</p> <p>8 A. Don't miss words, read it correctly. It says 9 overbroad, unduly burdensome and seeking irrelevant 10 information.</p> <p>11 Q. And again, I'm asking about the piece that says 12 unduly burdensome. What burden did you --</p> <p>13 A. It's the totality. It's the totality of 14 sentence and I've answered it.</p> <p>15 Q. So you can't identify any specific burden that 16 you encountered in terms of trying to respond to number 17 18?</p> <p>18 A. It was unduly burdensome.</p> <p>19 Q. And you can't identify --</p> <p>20 A. I responded.</p> <p>21 Q. I haven't asked a question.</p> <p>22 A. I did, I just answered you.</p> <p>23 Q. You cannot identify any specific burden that 24 you encountered in terms of responding to number 17, can 25 you?</p>	<p style="text-align: right;">Page 81</p> <p>1 A. It was asked and answered.</p> <p>2 Q. And you can't identify any specific burden that 3 you encountered in terms of trying to respond to number 4 14?</p> <p>5 A. It was all unduly burdensome and seeking 6 irrelevant information.</p> <p>7 Q. Number 19 it asks for documents referring to or 8 relating to or documenting the amount of money that you 9 spent developing, promoting, marketing and advertising 10 the goods and services that will bear this and there's an 11 objection there that there was a burden that you 12 encountered in terms of responding to that.</p> <p>13 A. Yes.</p> <p>14 Q. What was the burden?</p> <p>15 A. It was overbroad and unduly burdensome.</p> <p>16 Q. How much money did you spend advertising this 17 mark so far?</p> <p>18 A. I don't recall.</p> <p>19 Q. Was it more than \$1,000?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know if it's more than a million 22 dollars?</p> <p>23 A. Asked and answered.</p> <p>24 Q. Do you know if it's more than a dollar? You 25 have no other answer to that question?</p>

<p style="text-align: right;">Page 82</p> <p>1 I will assume based on Mr. Bank's silence that 2 he does not intend to provide any more information in 3 response to that question. 4 Number 21 asks for documents concerning or 5 identifying customers or potential customers to whom Rock 6 Solid investment has been promoted. 7 Do you recall any particular burdens that you 8 encountered in terms of trying to identify the customers 9 or potential customers who received these 10 advertisements? 11 A. It was burdensome and our proprietary 12 information. 13 Q. You said that one of the ways that you 14 advertise is direct mail or regular mail, correct? 15 A. I believe it was. 16 Q. And also e-mail? 17 A. I believe it was. 18 Q. Do you have a list of all of the people who 19 receive mails and e-mails that have the promotional 20 materials that say Rock Solid Investment? 21 A. I don't recall. 22 Q. Who would know the answer to that question? 23 A. I don't know. 24 Q. Would Catrina Davis know where these lists are 25 kept of the people who receive advertisements?</p>	<p style="text-align: right;">Page 83</p> <p>1 A. That would be a question for her. 2 Q. Do you have any more specific information of 3 how I would find out who the customers are who received 4 these advertisements? 5 A. You're asking me to do your job. 6 Q. I'm asking whether you have any specific 7 information or whether you know how to get any specific 8 information about who received these advertisements. 9 A. I don't know. I guess we go to IT, I don't 10 know. 11 Q. Who is in IT? 12 A. I don't know. 13 Q. You just said IT, who did you mean? 14 A. Whoever deals with the technology. 15 Q. For Dominion Diamonds? 16 A. For any of the companies. 17 Q. Who is your head of IT for any of Dominion 18 companies? 19 A. I don't know if we have a head of IT. 20 Q. Do you have an IT department? 21 A. No. 22 Q. Do you have people who work on IT issues? 23 A. A lot of people do. 24 Q. Name as many as you can? 25 A. I don't recall them all.</p>
<p style="text-align: right;">Page 84</p> <p>1 Q. Do you recall any of them? 2 A. I think we all try to do our part. 3 Q. Do you remember anybody specifically who does 4 IT work at your company? 5 A. No. 6 Q. So number 25 asks for documents disclosing the 7 principal media by or in which applicant promotes or 8 intends to promote the services described in the 9 application for Rock Solid Investment mark. 10 We discussed regular mail, e-mail, websites. 11 Are there any other media in which you have used the Rock 12 Solid Investment mark? 13 A. Yes. 14 Q. What is that? 15 A. Radio. 16 Q. Tell me about the radio. 17 A. What's the question? 18 Q. As I understood your question, you've used Rock 19 Solid -- 20 A. It wasn't my question, it was your question. 21 Q. Have you used Rock Solid Investment on the 22 radio? 23 A. Yes. 24 Q. Where? 25 A. All over the country.</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. Are there documents that would reflect which 2 stations that those advertisements occurred and on which 3 dates they occurred? 4 A. No. 5 Q. Why not? 6 A. Why? 7 Q. Do the radio stations put the advertisements on 8 for free? 9 A. I don't know. 10 Q. Who would know that? 11 A. I guess the radio stations. 12 Q. Who contacted the radio stations? 13 Who is affiliated with any of your companies to 14 set up the advertisements that say Rock Solid 15 Investments? 16 A. Our media buyer. 17 Q. Who is the media buyer? 18 A. Brad Sperling. 19 Q. How do you spell Sperling? 20 A. S-p-e-r-l-i-n-g. 21 Q. And who does he work for? 22 A. He works for himself. 23 Q. Where does he work geographically? 24 A. Minneapolis. 25 Q. Are there any documents that would show</p>

<p style="text-align: right;">Page 86</p> <p>1 communications with these radio advertisements between 2 your companies and Mr. Sperling?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. There's no documents of any sort?</p> <p>5 A. I'm sorry, I wasn't loud enough. Not that I'm 6 aware of.</p> <p>7 Q. Did Brad Sperling pay for the advertisements 8 himself?</p> <p>9 A. I'm not aware of that.</p> <p>10 Q. I would need to talk to Brad Sperling to find 11 out details about who asked for the advertisements and 12 when they happened and how much money was spent on those, 13 is that correct?</p> <p>14 A. I don't know.</p> <p>15 Q. You don't have any information that would help 16 me answer any of those questions today?</p> <p>17 A. I just don't know all the stations and I don't 18 know what arrangement we have in what marketplaces. We 19 have stations all over the country.</p> <p>20 Q. Understood. I was asking specifically about 21 documents that you would have though providing any kind 22 of information about where the radio advertisements 23 occurred. Do you have any documents?</p> <p>24 A. Documents for ads on diamonds?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 87</p> <p>1 A. I don't know that any documents exist on ads on 2 diamonds.</p> <p>3 Q. I'm scratching my head on this one because it 4 sounds like the radio advertisements occurred all over 5 the country but there's no way for me to find out today 6 any information about what they said or where they went 7 or what money was spent on them or even if there are any 8 documents that exist that would put that process in 9 place.</p> <p>10 A. Documents for radio ads?</p> <p>11 Q. Yes.</p> <p>12 A. I'm not aware that there are documents for 13 radio ads.</p> <p>14 Q. And yet there's no documents that you are aware 15 of that you would point me toward that would give me any 16 more information about what exactly happened on the radio 17 involving Rock Solid Investments, is that correct?</p> <p>18 A. Documents for the diamond advertisement? So 19 you're talking about Rock Solid Investment now?</p> <p>20 Q. Rock Solid Investment.</p> <p>21 A. I don't know that there are any documents but 22 you could probably Google the radio show.</p> <p>23 Q. If I wanted to find out the script for the 24 radio spot, where would I go?</p> <p>25 A. There's no script.</p>
<p style="text-align: right;">Page 88</p> <p>1 Q. Or if I wanted to get a copy of the radio spot. 2 Let me back up.</p> <p>3 A. You asked two questions.</p> <p>4 Q. Let me ask a different question. 5 Do you know exactly what's said over the radio 6 that used the phrase Rock Solid Investment?</p> <p>7 A. I did at the time. I don't recall it right 8 now.</p> <p>9 Q. Do you know how long of a radio spot it was?</p> <p>10 A. The spot itself?</p> <p>11 Q. Yes.</p> <p>12 A. Probably would have been 30 seconds or 60 13 seconds if it was a spot.</p> <p>14 Q. Who would have a record of that?</p> <p>15 A. There's probably a record in the radio show.</p> <p>16 Q. Does anybody affiliated with the Dominion 17 companies have any records regarding the radio spots?</p> <p>18 A. It's on our website. Let me back up, the radio 19 spot?</p> <p>20 Q. Yes.</p> <p>21 A. I don't know.</p> <p>22 Q. Who would I go to to find out the answer to 23 that question?</p> <p>24 A. The answer if somebody has it?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 89</p> <p>1 A. I guess you would need to depose everybody that 2 works for the company to get that answer to that specific 3 question.</p> <p>4 Q. Can you give me any help in terms of knowing 5 who the specific person is who I ought to ask questions 6 about the radio spot in terms of what the content was and 7 where they were distributed?</p> <p>8 A. There's multiple questions. Let's break them 9 down. Where they were distributed?</p> <p>10 Q. Yes.</p> <p>11 A. Brad Sperling might be a good one to ask.</p> <p>12 Q. What about the content itself, the actual words 13 that were said over the radio, who would have a record of 14 that?</p> <p>15 A. Brad Sperling would have a record of that as 16 well.</p> <p>17 Q. Is there anybody affiliated with the Dominion 18 companies that would also have a record?</p> <p>19 A. Probably.</p> <p>20 Q. Who would that person be?</p> <p>21 A. I don't know. I have no idea.</p> <p>22 Q. You have no idea?</p> <p>23 A. No, but you could go to our website see if that 24 helps you out.</p> <p>25 Q. But sitting here today, you can't think of a</p>

<p style="text-align: right;">Page 90</p> <p>1 human being affiliated with any of the Dominion companies</p> <p>2 --</p> <p>3 A. If you want me to narrow it down, my answer was</p> <p>4 you could probably talk to everybody. I don't know who</p> <p>5 would say I don't have it.</p> <p>6 Q. Is there any more information you can give me</p> <p>7 to help me find out what was on the radio spot and where</p> <p>8 they were played?</p> <p>9 A. You can go to our website.</p> <p>10 Q. Anything besides the website?</p> <p>11 A. I'm sorry, what is the question?</p> <p>12 Q. Is there anything besides the website, any</p> <p>13 other information you can give me sitting here right now</p> <p>14 that would help me find out what the content of the radio</p> <p>15 spots were and where they were played?</p> <p>16 A. I think it's also on You Tube.</p> <p>17 Q. Is there any human being that you can identify</p> <p>18 who helped get that information onto the website or onto</p> <p>19 You Tube or to Brad Sperling who is affiliated with the</p> <p>20 Dominion companies?</p> <p>21 A. Yes.</p> <p>22 Q. Who is that?</p> <p>23 A. Jessica Berford (phonetic), and don't make me</p> <p>24 spell it.</p> <p>25 Q. Where does Jessica Berford work?</p>	<p style="text-align: right;">Page 91</p> <p>1 A. In Florida.</p> <p>2 Q. Where at in Florida?</p> <p>3 A. Port St. Lucie.</p> <p>4 Q. Do you have a street address?</p> <p>5 A. No.</p> <p>6 Q. Does she work at your office?</p> <p>7 A. Yes.</p> <p>8 Q. And why do you say that Jessica Berford may</p> <p>9 have information about this?</p> <p>10 A. Because I believe she may have posted those.</p> <p>11 Q. When you say posted, is that the spots that are</p> <p>12 on You Tube?</p> <p>13 A. Yes.</p> <p>14 Q. What about the radio spot?</p> <p>15 A. That's what she posted.</p> <p>16 Q. Okay. I may be confusing you here with the</p> <p>17 question. It sounds like the same content -- let me ask</p> <p>18 you this question.</p> <p>19 Is the same content that appears on You Tube</p> <p>20 what was on the radio station?</p> <p>21 A. To the best of my knowledge.</p> <p>22 Q. Did you provide a copy of the You Tube video or</p> <p>23 spot to us?</p> <p>24 A. I don't know anything that would have been at</p> <p>25 the time you have there.</p>
<p style="text-align: right;">Page 92</p> <p>1 Q. How would I find that You Tube video?</p> <p>2 A. www.youtube.com.</p> <p>3 Q. Do you have any more specific information?</p> <p>4 A. I don't know how it gets any more specific than</p> <p>5 that.</p> <p>6 Q. Do you have any more specific information about</p> <p>7 how I would get a copy of the specific You Tube spot that</p> <p>8 Jessica Berford put onto there?</p> <p>9 A. Yes.</p> <p>10 Q. Please tell me.</p> <p>11 A. You get on the Internet and you go to</p> <p>12 youtube.com.</p> <p>13 Q. Can you give me any more specific information</p> <p>14 than that?</p> <p>15 A. That's pretty dog gone specific, but if you</p> <p>16 want to spend some time together working on the Internet</p> <p>17 later, we can do that.</p> <p>18 Q. I'm asking you sitting here right now what</p> <p>19 would I search to get to that You Tube spot.</p> <p>20 A. I have no idea.</p> <p>21 Q. Do you understand you were already obligated to</p> <p>22 provide us information about these advertisements that</p> <p>23 say Rock Solid Investment?</p> <p>24 A. Everything I needed to give you at the time you</p> <p>25 asked for it has been given to you.</p>	<p style="text-align: right;">Page 93</p> <p>1 Q. And yet did you give us any information about</p> <p>2 this You Tube video?</p> <p>3 A. If it was discloseable at the time, then you</p> <p>4 got it.</p> <p>5 Q. Did you give any information about the radio</p> <p>6 spot?</p> <p>7 A. I gave you all the information asked of me at</p> <p>8 the time.</p> <p>9 Q. Do you know whether or not you gave us any</p> <p>10 information about You Tube or the radio spots?</p> <p>11 A. I gave you everything that was requested of me</p> <p>12 at that moment.</p> <p>13 Q. In Exhibit A to Exhibit 3, you provided some</p> <p>14 materials that show advertisements that have the Rock</p> <p>15 Solid Investment mark.</p> <p>16 Are there any other advertisements that you</p> <p>17 you're aware of that use specifically the Rock Solid</p> <p>18 Investment phrase?</p> <p>19 A. At of that moment it was provided to you, I</p> <p>20 don't believe so.</p> <p>21 Q. Do you know since then have there been any?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know whether any advertising, and by</p> <p>24 advertising I mean something that would be either on</p> <p>25 paper or in an e-mail, is there any advertising that has</p>

<p style="text-align: right;">Page 94</p> <p>1 been withheld from us that says Rock Solid Investment on 2 it?</p> <p>3 A. I'm not aware.</p> <p>4 Q. Have you done any other advertisements using 5 Rock Solid Investment other than what you provided to us, 6 the You Tube video and the radio spots?</p> <p>7 A. We may have, I don't know.</p> <p>8 Q. You have no specific knowledge of anything else 9 besides that right now?</p> <p>10 A. I don't. We may have, we may not have.</p> <p>11 Q. As far as the radio spot, going back to that, 12 did they refer to Rock Solid Investment specifically?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you know one way or the other whether they 15 actually said Rock Solid Investment during that radio 16 ad?</p> <p>17 A. I don't recall the exact words used on the 18 radio show.</p> <p>19 Q. What about on the You Tube video, do they ever 20 actually say Rock Solid Investment?</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know if there was an image shown that 23 said Rock Solid Investment?</p> <p>24 A. I don't know. I don't handle that.</p> <p>25 Q. That would be Jessica Berford?</p>	<p style="text-align: right;">Page 95</p> <p>1 A. Yeah.</p> <p>2 Q. Or Brad?</p> <p>3 A. Or Brad or any other person involved.</p> <p>4 Q. Are there any specific burdens that you recall 5 encountering in terms of trying to locate any 6 advertisements that say Rock Solid Investment?</p> <p>7 A. Are you directing me to a question?</p> <p>8 Q. I'm asking you whether there are any burdens 9 that you encountered in terms of just trying to respond 10 to a question about your advertising of the Rock Solid.</p> <p>11 A. Which question are you referring to?</p> <p>12 Q. I'm asking you a question.</p> <p>13 A. I'm asking you, you said you're referring to a 14 question. Which one are you referring to?</p> <p>15 Q. I don't believe I actually said that but I'll 16 ask a few questions.</p> <p>17 Do you recall encountering any burdens in terms 18 of trying to respond to a question about whether or not 19 you've advertised Rock Solid Investment?</p> <p>20 A. If I put in here it was overly burdensome, then 21 it would have been.</p> <p>22 Q. What was the burden?</p> <p>23 A. Responding to that.</p> <p>24 Q. Do you have any more information about the 25 nature of the burden? Was it the number documents or the</p>
<p style="text-align: right;">Page 96</p> <p>1 places you had to look?</p> <p>2 A. I don't recall a specific answer right now.</p> <p>3 Q. Okay. There's a question on 34 that asks about 4 documents concerning and identifying the trade channels 5 that you would sell services through that use Rock Solid 6 investment mark.</p> <p>7 Do you recall any burdens in terms of trying to 8 figure out what those trade channels are?</p> <p>9 A. Yeah, it was overly broad, unduly burdensome 10 and seeking irrelevant information.</p> <p>11 Q. What was the burden?</p> <p>12 A. It was unduly burdensome.</p> <p>13 Q. Is there any more specific information you have 14 about the burden?</p> <p>15 A. Yes, just that it was unduly burdensome.</p> <p>16 Q. On 35 it asks for documents that refer to study 17 surveys or research that you conducted in terms of 18 potential customers for the Rock Solid Investment.</p> <p>19 A. Yes.</p> <p>20 Q. Are you reading the paper right now, Mr. 21 Bank?</p> <p>22 A. Yes, I can multi task but you go right ahead.</p> <p>23 Q. I would like the record to reflect that I'm 24 looking at and upside down copy of Palm Beach Post and 25 the Wall Street Journal.</p>	<p style="text-align: right;">Page 97</p> <p>1 Is there something about this process that 2 makes you not want to answer these questions?</p> <p>3 A. I've been answering them. Which one did I not 4 answer?</p> <p>5 Q. Was there any burden that you encountered in 6 terms of trying to locate any studies or surveys you did 7 about potential customers?</p> <p>8 A. Is this back to 35?</p> <p>9 Q. Yes.</p> <p>10 A. Yes, it was unduly burdensome and overbroad.</p> <p>11 Q. Was there any specific burden you 12 encountered?</p> <p>13 A. It was overly, unduly burdensome.</p> <p>14 Q. Do you know what a privilege log is?</p> <p>15 A. It's a privilege log.</p> <p>16 Q. I'm asking whether you know what that is.</p> <p>17 A. Is there a question on here?</p> <p>18 Q. It's referred to multiple times in this 19 document. I'm asking you if you know what one is.</p> <p>20 A. Where? Could you bring me to wherever that is 21 you are?</p> <p>22 Q. If you go to, for instance, number 36 and you 23 look at your response there, the second question says 24 privilege log, colon, attorney file, do you see that?</p> <p>25 A. That would be information traded between my</p>

<p style="text-align: right;">Page 98</p> <p>1 attorney and I.</p> <p>2 Q. Understood, but do you know what a privilege</p> <p>3 log is?</p> <p>4 A. The information exchanged between an attorney</p> <p>5 and I.</p> <p>6 Q. Have you ever seen a document relating to the</p> <p>7 answers that you gave here called a privilege log?</p> <p>8 A. I don't recall.</p> <p>9 Q. Now moving forward on Exhibit 3, the third</p> <p>10 interrogatory asks you to identify each location in the</p> <p>11 U.S.</p> <p>12 A. Are we back to No. 3?</p> <p>13 Q. We're on Exhibit No. 3, correct, and if you</p> <p>14 turn in past the first section you'll see a section</p> <p>15 entitled responses to interrogatories. You see the third</p> <p>16 question there?</p> <p>17 A. I do.</p> <p>18 Q. It says identify each location in the U.S. in</p> <p>19 which applicant and the entities or individuals</p> <p>20 identified in the previous interrogatories operate an</p> <p>21 office or conduct business. It says there that you,</p> <p>22 Daryl Bank, and Dominion Diamonds conduct business or</p> <p>23 operate in over 40 states.</p> <p>24 Can you provide me any more information about</p> <p>25 which states?</p>	<p style="text-align: right;">Page 99</p> <p>1 A. No.</p> <p>2 Q. Who would have a record of what states you</p> <p>3 conduct business in?</p> <p>4 A. I don't know. I wouldn't say we're capable of</p> <p>5 operating in any state or any country in the world except</p> <p>6 those on the terrorist list. I'm sure those would be</p> <p>7 frowned upon.</p> <p>8 Q. Is there a list somewhere where you have the</p> <p>9 individuals who are affiliated with Dominion so we can</p> <p>10 see what the geographic spread is of the company?</p> <p>11 A. I'm sure somewhere there's a list of all people</p> <p>12 that work for us but that's proprietary information.</p> <p>13 Q. Would you have a copy of that list?</p> <p>14 A. I don't know.</p> <p>15 Q. Who would you ask to find out who has a copy of</p> <p>16 that list?</p> <p>17 A. I would probably try to work on it myself.</p> <p>18 Q. Who handles payroll for Dominion Investment</p> <p>19 Group?</p> <p>20 A. Accounting.</p> <p>21 Q. Accounting within Dominion Investment Group,</p> <p>22 it's not outsourced?</p> <p>23 A. I think it's outsourced but I'm not sure.</p> <p>24 Q. Who would have the answer to that question?</p> <p>25 A. I could go dig it up.</p>
<p style="text-align: right;">Page 100</p> <p>1 Q. Where would you go dig?</p> <p>2 A. In the company.</p> <p>3 Q. Where specifically?</p> <p>4 A. Probably ask some questions.</p> <p>5 Q. Who would you ask questions to?</p> <p>6 A. Several people until I got the answer that I</p> <p>7 needed.</p> <p>8 Q. Where would you start?</p> <p>9 A. Right at the front door.</p> <p>10 Q. What is the name of the person?</p> <p>11 A. I'm not sure, it depends on who I encounter</p> <p>12 first.</p> <p>13 Q. So you just come in the door and say find me</p> <p>14 this information, is that correct?</p> <p>15 A. It depends on who is in the office.</p> <p>16 Q. Well, if I need to go and ask somebody the same</p> <p>17 question to get to the bottom of that, who would I ask?</p> <p>18 A. I don't know, I would have to find out.</p> <p>19 Q. Will you do that?</p> <p>20 A. If counsel tells me to.</p> <p>21 Q. I think we asked you about when you first knew</p> <p>22 about Prudential's rock family mark. You have no</p> <p>23 specific recollection of when you learned about that?</p> <p>24 A. It was asked and answered.</p> <p>25 Q. You have no other information? You haven't</p>	<p style="text-align: right;">Page 101</p> <p>1 recalled anything since you gave that answer?</p> <p>2 A. I haven't recalled anything since I gave that</p> <p>3 answer.</p> <p>4 Q. What commodities, exchange services did</p> <p>5 Dominion Diamond, LLC, offer?</p> <p>6 A. I don't understand the question.</p> <p>7 Q. Does Dominion Diamonds, LLC, cover commodities</p> <p>8 exchange services?</p> <p>9 A. Define what you mean by commodities exchange</p> <p>10 service.</p> <p>11 Q. I'm asking the phrase as it appears in your</p> <p>12 trademark application, what commodities exchange</p> <p>13 services --</p> <p>14 A. It's a commodity itself.</p> <p>15 Q. -- does Dominion Diamonds offer?</p> <p>16 A. Diamonds itself is a commodity.</p> <p>17 Q. So you help people buy diamonds, is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Are there any other commodities, exchange</p> <p>21 services that Dominion Diamonds offers?</p> <p>22 A. To sell them.</p> <p>23 Q. Anything else? Are there any other</p> <p>24 commodities, exchange services that Dominion Diamonds</p> <p>25 offers?</p>

<p style="text-align: right;">Page 102</p> <p>1 A. Currently, no.</p> <p>2 Q. One of the other services that's identified in</p> <p>3 your trademark application is commercial and industrial</p> <p>4 management assistance, in particular, by means of</p> <p>5 multimedia platforms in the field of on-line trading.</p> <p>6 Can you tell me what that means?</p> <p>7 A. We're working on putting together a diamond</p> <p>8 trading platform.</p> <p>9 Q. What kind of a platform would that be?</p> <p>10 A. Internet, business to business, consumer.</p> <p>11 Q. So this would be business to business and also</p> <p>12 ordinary consumers?</p> <p>13 A. Yes.</p> <p>14 Q. You say we're working on it, who at Dominion</p> <p>15 Diamonds is working on that?</p> <p>16 A. My counsel and I.</p> <p>17 Q. Anyone besides you two?</p> <p>18 A. Not that I'm aware of to date. No, no, that's</p> <p>19 incorrect, Mike Aleksic.</p> <p>20 Q. Spell Aleksic.</p> <p>21 A. A-l-e-c-s-i-c. It's on the website.</p> <p>22 Q. When you say it's on the website, the Dominion</p> <p>23 Investment Group?</p> <p>24 A. The spelling of his name.</p> <p>25 Q. Which website?</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Dominion Investment Group.</p> <p>2 Q. Is there anybody else besides you and your</p> <p>3 counsel and Mike Aleksic that are working on this diamond</p> <p>4 trade platform?</p> <p>5 A. I don't think so.</p> <p>6 Q. Have there been any announcements about it?</p> <p>7 A. I don't recall.</p> <p>8 Q. What is your time line to actually offer</p> <p>9 services to your public in terms of the diamond trading</p> <p>10 platform?</p> <p>11 A. ASAP.</p> <p>12 Q. By ASAP, do you think it could happen</p> <p>13 tomorrow?</p> <p>14 A. I don't know. If the clouds shined upon us, it</p> <p>15 might.</p> <p>16 Q. Do you think it will happen in 2015?</p> <p>17 A. I don't know. I would like to think so.</p> <p>18 Q. Your hope is that it would happen in 2015?</p> <p>19 A. My hope is to have it done as quickly as</p> <p>20 possible.</p> <p>21 Q. And can you explain to somebody who doesn't</p> <p>22 know anything about what a diamond trading platform would</p> <p>23 look like, explain what you mean.</p> <p>24 A. I don't know. I think that's privileged. We</p> <p>25 filed documents on it.</p>
<p style="text-align: right;">Page 104</p> <p>1 Q. What documents did you file?</p> <p>2 A. With the patent office.</p> <p>3 Q. You've applied for a patent?</p> <p>4 A. Yeah.</p> <p>5 Q. Who are the inventors that are identified on</p> <p>6 that patent application?</p> <p>7 A. I don't recall.</p> <p>8 Q. Are you one of them?</p> <p>9 A. I'm assuming but I don't recall. That would be</p> <p>10 a question for counsel.</p> <p>11 Q. When was that patent application filed?</p> <p>12 A. I don't know.</p> <p>13 Q. Was it filed this year?</p> <p>14 A. I don't believe so.</p> <p>15 Q. Was it filed more than a year ago?</p> <p>16 A. I don't recall.</p> <p>17 Q. What is your most detailed information you have</p> <p>18 about when you filed that patent application?</p> <p>19 A. This decade.</p> <p>20 Q. Do you have any other pending applications?</p> <p>21 A. I don't recall.</p> <p>22 Q. You don't recall any specific patent</p> <p>23 applications that you have right now other than the one</p> <p>24 on a diamond trade platform?</p> <p>25 A. I don't recall if I have others.</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Do you know if there are any other inventors</p> <p>2 who helped you come up with this idea for the diamond</p> <p>3 trading platform?</p> <p>4 A. Isn't that the same question as who is on the</p> <p>5 application?</p> <p>6 Q. Not exactly. Is there anybody who helped you</p> <p>7 come up with the diamond trading platform that is</p> <p>8 described in the patent application other than Mike</p> <p>9 Aleksic, your counsel and yourself?</p> <p>10 A. There probably were but I don't recall.</p> <p>11 Q. What other people worked on the project with</p> <p>12 you?</p> <p>13 A. That's the I'm not aware part.</p> <p>14 Q. Who is aware of this project?</p> <p>15 A. Probably everybody who works with the company</p> <p>16 are aware of the project.</p> <p>17 Q. One of the other services described in your</p> <p>18 trademark application is financial services, mainly</p> <p>19 commodity trading, financial asset management and</p> <p>20 brokerage services all relating to commodities.</p> <p>21 What financial asset management services does</p> <p>22 Dominion Diamond, LLC, offer?</p> <p>23 A. Dominion Diamonds, LLC?</p> <p>24 Q. Uh-huh.</p> <p>25 A. They're going to facilitate financial planners</p>

<p style="text-align: right;">Page 106</p> <p>1 and consultants out in the field with their client's 2 financial needs.</p> <p>3 Q. How would that occur?</p> <p>4 A. What do you mean how would that occur?</p> <p>5 Q. So Dominion Diamonds, LLC, do the employees 6 that work for that, do they have meetings with their 7 customers? How exactly do they go about setting --</p> <p>8 A. I assume they have meetings with their 9 customers. I assume they meet with their customers, but, 10 you know, a lot of this Internet stuff, who knows if 11 people meet with their customers anymore.</p> <p>12 Q. Let me ask a different question. Do they 13 provide any financial asset management services that 14 don't relate to diamonds?</p> <p>15 A. To who are you referring to?</p> <p>16 Q. Anybody working for Dominion Diamonds, LLC.</p> <p>17 A. No. That who, no.</p> <p>18 Q. Okay. So this would all be diamond related. 19 What about brokerage services, are all the 20 brokerage services that Dominion Diamonds offer related 21 to diamonds?</p> <p>22 A. Currently.</p> <p>23 Q. But that could change?</p> <p>24 A. Yes.</p> <p>25 Q. What other kind of brokerage services would you</p>	<p style="text-align: right;">Page 107</p> <p>1 offer?</p> <p>2 A. I'm open to anything.</p> <p>3 Q. In terms of -- it also says that Dominion 4 Diamonds involved in commodity trading, providing 5 information and data in the field financial risk 6 management and trading.</p> <p>7 What kind of financial risk management does 8 Dominion Diamond provide to people?</p> <p>9 A. The risk management of diamonds.</p> <p>10 Q. Is there any other kind of risk management?</p> <p>11 A. Currently just with diamonds.</p> <p>12 Q. Could that change?</p> <p>13 A. Yes.</p> <p>14 Q. And then also it says that the application is 15 for financial analysis and research services?</p> <p>16 A. Is there a question?</p> <p>17 Q. Yes.</p> <p>18 A. You didn't ask a question.</p> <p>19 Q. Does Dominion Diamonds provide any financial 20 analysis and research service that does not relate to 21 diamonds?</p> <p>22 A. Currently, no.</p> <p>23 Q. But they could at any time?</p> <p>24 A. They could.</p> <p>25 Q. In the next response you say that the first</p>
<p style="text-align: right;">Page 108</p> <p>1 use --</p> <p>2 A. Which one are you pointing me to now?</p> <p>3 Q. In your response to interrogatory number eight, 4 further down you say that your first use of Rock Solid 5 Investment was February of 2014.</p> <p>6 A. Okay.</p> <p>7 Q. How exactly -- what was the first use?</p> <p>8 A. I don't recall.</p> <p>9 Q. You don't know if it was a mailing or an e-mail 10 or a radio spot?</p> <p>11 A. I don't recall.</p> <p>12 Q. And it says that you conduct business --</p> <p>13 A. Are we still on the same question?</p> <p>14 Q. We are, yeah. We asked for some very specific 15 information about when this Rock Solid Investment mark 16 that you've applied for was used with all these services 17 and all it says here is that it first occurred on 18 February, 2014 and that you conduct business in over 40 19 states.</p> <p>20 Do you have any more specific information to 21 indicate when Rock Solid Investment was used to advertise 22 any of these services here?</p> <p>23 A. The question is do I have more information?</p> <p>24 Q. Yeah, more specific information as to when.</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Do you have any more specific information about 2 how these advertisements were used in conjunction with 3 the services?</p> <p>4 A. No.</p> <p>5 Q. You identified yourself as a person with 6 knowledge of any and all current uses or planned uses of 7 the Rock Solid Investment mark.</p> <p>8 You've given me some information today about 9 how you've used it. Some of the information has not been 10 complete. Who else --</p> <p>11 A. It's been complete.</p> <p>12 Q. Who else would I ask for information about any 13 and all current or planned uses of the Rock Solid 14 Investment mark?</p> <p>15 A. In general? I'm not sure if I understand.</p> <p>16 Q. Is there any other person that would also have 17 knowledge of how you're using or intend to use the Rock 18 Solid Investment mark?</p> <p>19 A. I don't know what they know. Anybody in the 20 company, I don't know what they're thinking. I don't 21 know what their intent is.</p> <p>22 Q. Is that the most specific information you could 23 give me?</p> <p>24 A. What specific information would you like?</p> <p>25 Q. I would like the name of a person who currently</p>

<p style="text-align: right;">Page 114</p> <p>1 Q. Do you have any advertisements currently using 2 Rock Solid Investment that are out in the marketplace? 3 A. I think we provided you with some. 4 Q. Do you have any others? 5 A. I don't recall. 6 Q. If I wanted to find out when the next direct 7 mail piece was going to go out that said Rock Solid 8 Investment, who would I ask to find that out? 9 A. Me. 10 Q. When is that going out? 11 A. I don't know. 12 Q. You don't know? 13 A. No. 14 Q. How many have you sent out so far? 15 A. I don't know. 16 Q. Who else at your company has records of when 17 direct mail pieces were sent out that say Rock Solid -- 18 A. No one has a record of it. It would be -- we 19 would be able to trace it by e-mail. 20 Q. Did you provide any e-mails that indicate when 21 the advertisements, let's say Rock Solid Investment, went 22 out? 23 A. Whatever I provided to you at the time it was 24 required to be provided. 25 Q. Are you saying there are no other e-mails that</p>	<p style="text-align: right;">Page 115</p> <p>1 reflect any communications about when direct mail pieces 2 were going out that say Rock Solid Investment? 3 A. Since then? 4 Q. Actually I'm asking at that time. 5 A. Everything that was needed to be provided to 6 you was provided to you. 7 Q. How much money have you spent developing, 8 promoting and advertising the services that you advertise 9 with Rock Solid Investments? 10 A. I don't know. 11 Q. Have you made any kind of financial investment 12 at Dominion Diamonds, LLC? 13 A. I'm sure that I have. 14 Q. Do you recall any specific monetary amount that 15 you put into it? 16 A. Not at all. 17 Q. What's the annual revenue of Dominion Diamonds, 18 LLC? 19 A. I don't know. 20 Q. Who would I ask to find that out? 21 A. You should ask me if I could go find it. 22 Q. So you could find the information? 23 A. Yeah, if my attorney told me to disclose it. 24 Q. How much money does Dominion Diamond, LLC, 25 spend each year advertising?</p>
<p style="text-align: right;">Page 116</p> <p>1 A. I don't know. 2 Q. Is it more than \$1,000? 3 A. It would still be I don't know. 4 Q. So you can't tell whether it's more or less 5 than \$1,000? 6 A. Asked and answered. 7 COURT REPORTER: Can we take a break at some 8 point? 9 MR. BARNARD: Let's take 15 minutes. 10 (Thereupon, a short break was taken.) 11 BY MR. BARNARD: 12 Q. Look at Exhibit No. 3, I'm going to direct you 13 to question 20. It says -- it asks you to identify your 14 principal or target customers or investors. Can you give 15 me any more specifics on that? 16 A. It's investors. 17 Q. How do you find these investors? 18 A. All types of ways. 19 Q. Give me some examples. 20 A. Direct mail. 21 Q. And how do you get a list of people to direct 22 mail to? 23 A. It's just a database we built up over years. 24 Q. And in terms -- are you saying that your direct 25 mail pieces go to people you've already done business</p>	<p style="text-align: right;">Page 117</p> <p>1 with primarily? 2 A. It could. 3 Q. How do you find new customers? 4 A. All types of ways. 5 Q. Give me some examples. 6 A. Radio, seminars, word of mouth, Internet, 7 e-mail, website. 8 Q. Did you do any direct mail to people who aren't 9 present customers or past customers? 10 A. Yes. 11 Q. Do you know how those direct mail projects are 12 targeted? 13 A. I don't understand, targeted? 14 Q. I mean are they just based on geology or did 15 you try to narrow down the people who are receiving the 16 direct mail piece? 17 A. We are always trying to cull the herd if that's 18 what you're asking. 19 Q. How do you do that? 20 A. People responding, people falling off the list, 21 people moving, people not fitting the demographic. 22 Q. What is the demographic? 23 A. People who have that ability or business 24 investing. 25 Q. Do you target people who have wealth above a</p>

<p style="text-align: right;">Page 118</p> <p>1 certain level or do you send advertisements to people at 2 all different income levels? 3 A. All different income levels. 4 Q. On 22 it says list principal media by or in 5 which you're using Rock Solid Investment and you identify 6 direct sales and by the web. 7 A. This is 22? 8 Q. 21. 9 A. Okay. 10 Q. The 21 asks about principal media and it says 11 direct sales. What are the media that those direct sales 12 are occurring through? 13 A. You mean the medium? 14 Q. Media, is it mail, telephone calls? 15 A. It can be all of that. 16 Q. The ones we talked about earlier? 17 A. Yes, and any others I failed to mention. 18 Q. What about television? 19 A. I have not used television. 20 Q. Do you intend to continue to use radio to 21 promote Rock Solid Investments? 22 A. I intend to use radio to promote anything that 23 our associated companies do. 24 Q. Okay. I'm marking Exhibit No. 4. 25 (Marked for identification as Opposer's</p>	<p style="text-align: right;">Page 119</p> <p>1 Exhibit No. 4.) 2 BY MR. BARNARD: 3 Q. Mr. Bank, do you recognize Exhibit No. 4? 4 A. Yes. 5 Q. What is Exhibit No. 4? 6 A. It appears to be a photocopy of one of our 7 brochures. 8 Q. You may want to page through that too. I'm 9 going to represent to you that's what your counsel 10 provided to us as Exhibit A referred to the last document 11 we were discussing. Page through that see if that's a 12 correct copy of what was provided to us. 13 A. I have to accept your assertion, I don't have a 14 copy with me. 15 Q. You're seeing there's no e-mails in Exhibit A, 16 correct? 17 A. Excuse me, there's no e-mails? 18 Q. Exactly. 19 A. I don't understand the question, there's no 20 e-mails? 21 Q. Do you see any e-mails in Exhibit No. 4? 22 A. This is a document, this isn't an e-mail. 23 Q. Okay. Is there anything else that you intended 24 to be Exhibit A to your interrogatory answers besides 25 that document that you have?</p>
<p style="text-align: right;">Page 120</p> <p>1 MR. TERRY: Off the record for a second. 2 (Thereupon, a discussion was held off 3 the record.) 4 BY MR. BARNARD: 5 Q. And so Exhibit No. 4 in front of you that 6 consists of, it looks like a marketing document for 7 Dominion Investment Grade Diamonds and then there is an 8 e-mail attached in the back. 9 A. There's an e-mail printout on the back. 10 Q. Tell me what that is. 11 A. It's an e-mail from me to one of my 12 attorneys. 13 Q. And it's my understanding this is an e-mail 14 template that you're currently using? 15 A. That's a signature page of Catrina Davis when 16 she e-mails something, so you're seeing what would be 17 displayed on any e-mail she sends. 18 Q. I see. It says Catrina Davis is a managing 19 partner -- oh, Catrina Davis Banks, is this your wife? 20 A. Yes. 21 Q. So any e-mail she sends out says a Rock Solid 22 Investment like this e-mail says? 23 A. Yes. This is a template of her e-mail. 24 Q. Do you send e-mails? 25 A. Yes.</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. Do they also have that same template? 2 A. Not as an automatic. Hers is an automatic. 3 Q. Got it. Now in terms of the other document 4 that is here as part of Exhibit A, can you tell me what 5 this Dominion Investment Grade document is? 6 A. This is a brochure. 7 Q. When was this brochure first created? 8 A. I don't recall. 9 Q. Who created it? 10 A. Me and whoever else was involved. 11 Q. Who else was involved in creating this 12 document? 13 A. I don't recall but I'm sure Catrina was a part 14 of that. 15 Q. Anybody else? 16 A. I'm sure there were others, I just don't 17 recall. 18 Q. Did you use an outside agency to create this 19 document -- 20 A. To print it? 21 Q. -- like an ad agency? 22 A. To print it? 23 Q. For any part of the project. 24 A. To print it, we use an outside company to print 25 this because we don't have a printing press in my</p>

<p>Page 122</p> <p>1 company.</p> <p>2 Q. Who is the company?</p> <p>3 A. I don't know.</p> <p>4 Q. Who could answer that question?</p> <p>5 A. I could find it for you.</p> <p>6 Q. How is this document, and when I say in terms</p> <p>7 of time frame, I'm talking about when the time this</p> <p>8 document was first created up to the current time, how is</p> <p>9 this document shown in Exhibit No. 4 distributed?</p> <p>10 What are all the different ways it is</p> <p>11 distributed?</p> <p>12 A. Physically?</p> <p>13 Q. Physically.</p> <p>14 A. Physically through mail, digitally through</p> <p>15 e-mail.</p> <p>16 Q. Is it distributed in any other way?</p> <p>17 A. Someone could physically distribute it.</p> <p>18 Q. So there are copies made for individual sales</p> <p>19 representatives?</p> <p>20 A. Correct.</p> <p>21 Q. How many copies?</p> <p>22 A. I'm sorry?</p> <p>23 Q. Do you have a rough estimate of how many of</p> <p>24 these things you have printed off?</p> <p>25 A. I have no idea.</p>	<p>Page 123</p> <p>1 Q. Is it fair to say thousands?</p> <p>2 A. It might be fair but then I would make up a</p> <p>3 number. I don't know.</p> <p>4 Q. Who would have a record of how many of these</p> <p>5 were printed?</p> <p>6 A. Physically printed?</p> <p>7 Q. Yes.</p> <p>8 A. I'm sure I could dig it up, I just don't know</p> <p>9 all these numbers off the top of my head.</p> <p>10 Q. In terms of how many brochures were printed,</p> <p>11 and that was a separate company you said?</p> <p>12 A. The physical print?</p> <p>13 Q. Exactly.</p> <p>14 A. Yes.</p> <p>15 Q. And you don't know the name of the company who</p> <p>16 physically printed this?</p> <p>17 A. No, I don't know the name of the company we do</p> <p>18 business with.</p> <p>19 Q. Who keeps track of all the people that this</p> <p>20 document was mailed to?</p> <p>21 A. I guess whoever mailed it if it was something</p> <p>22 they needed to keep track of.</p> <p>23 Q. I'm assuming if it's direct mail there's a list</p> <p>24 of all the people that can get this, correct?</p> <p>25 A. If it was direct mail.</p>
<p>Page 124</p> <p>1 Q. Who maintains those lists?</p> <p>2 A. The lists of?</p> <p>3 Q. Of people who actually received this.</p> <p>4 A. If it was direct mail, it would be whoever that</p> <p>5 person was who direct mailed it.</p> <p>6 Q. Who at your company direct mail these to</p> <p>7 people?</p> <p>8 A. It could be anybody.</p> <p>9 Q. Is there anybody at your company you can</p> <p>10 identify who keeps track of who receives these</p> <p>11 brochures?</p> <p>12 A. No.</p> <p>13 Q. Does your company do the mailing itself or does</p> <p>14 it contract that out to another company?</p> <p>15 A. Contracted out meaning?</p> <p>16 Q. The direct mail projects.</p> <p>17 A. Like we have a drop ship company or...</p> <p>18 Q. In some of the industries, depending on the</p> <p>19 size of the mailing list, you would just say I want to</p> <p>20 hit this geography and they would take care of</p> <p>21 everything, whereas other companies do that all</p> <p>22 internally.</p> <p>23 A. In terms of the brochure?</p> <p>24 Q. Exactly.</p> <p>25 A. It would be the whoever was dealing with the</p>	<p>Page 125</p> <p>1 person out in the field, whether it's an agent or a</p> <p>2 potential client or a client.</p> <p>3 Q. I see. Was this brochure ever direct mailed</p> <p>4 out to people that had not previously been contacted by</p> <p>5 the Dominion Group?</p> <p>6 A. You mean physically?</p> <p>7 Q. Yes.</p> <p>8 A. No, not in this physical format that I'm aware</p> <p>9 of, maybe a sales consultant or advisor in the field may</p> <p>10 have done that.</p> <p>11 Q. Was there any kind of has mailing done with</p> <p>12 this document?</p> <p>13 A. If you're asking if I went and bought a list</p> <p>14 and mass mailed out, I have no done that.</p> <p>15 Q. Do you know if anyone else affiliated with any</p> <p>16 of the Dominion group of companies has done that?</p> <p>17 A. I don't know that. I can't answer that.</p> <p>18 Q. If I want to find out the answer to that, who</p> <p>19 would I ask?</p> <p>20 A. You would have to ask every individual</p> <p>21 associated with us what they did.</p> <p>22 Q. In theory, if it was mass mailing there would</p> <p>23 be a certain expenditure with it, certain paperwork.</p> <p>24 If you're trying to find out the answer to the</p> <p>25 question of whether there had been any mass mailing, who</p>

<p>Page 130</p> <p>1 encompass staff.</p> <p>2 Q. You identified some marketing people earlier.</p> <p>3 Is there anybody else besides that list that --</p> <p>4 A. Other than everybody has a helping hand in</p> <p>5 everything we do.</p> <p>6 Q. I understand, but in terms of people who have a</p> <p>7 lot of responsibility for that or primarily</p> <p>8 responsibility for that, I think you had Jessica</p> <p>9 Berford -- in terms of the marketing people, Jessica, who</p> <p>10 else works on marketing?</p> <p>11 A. Elizabeth Greco.</p> <p>12 Q. Who else?</p> <p>13 A. Everybody else.</p> <p>14 Q. But Elizabeth, Jessica, that's their primary</p> <p>15 responsibility or is that their primary responsibility?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know whether exhibit -- the Dominion</p> <p>18 Investment Grade documents stock that we're looking at</p> <p>19 here in Exhibit No. 4, do you know whether that's ever</p> <p>20 sold in conjunction with Prudential products?</p> <p>21 A. Sold in conjunction with?</p> <p>22 Q. Yes. Let me back up a little bit.</p> <p>23 Are you aware of whether or not Dominion</p> <p>24 Investment Group is selling Prudential products?</p> <p>25 A. I'm not aware.</p>	<p>Page 131</p> <p>1 Q. Would it surprise you to find out they are?</p> <p>2 A. No.</p> <p>3 Q. Do you know whether there are ever any</p> <p>4 communications that Dominion Investment Group sends out</p> <p>5 where a customer would receive this Dominion Investment</p> <p>6 Grade Diamonds information but also receive information</p> <p>7 about Prudential?</p> <p>8 A. I'm not aware of any information like that.</p> <p>9 Q. If you wanted to find that out, would you have</p> <p>10 to go to each individual representative and ask them?</p> <p>11 A. I would.</p> <p>12 Q. Is there any other way to find that out?</p> <p>13 A. No.</p> <p>14 Q. Are there any other brochures that say Rock</p> <p>15 Solid Investment besides this one that we're looking at</p> <p>16 here?</p> <p>17 A. In terms of a brochure, this is all that I'm</p> <p>18 currently familiar with.</p> <p>19 Q. Are there any other advertisements that you're</p> <p>20 aware of other than the radio and the You Tube spots, any</p> <p>21 kind of like a print or e-mail document that says Rock</p> <p>22 Solid Investment besides that document, which says</p> <p>23 Dominion Investment Grade Diamonds, and these e-mails</p> <p>24 that have the tag line on there?</p> <p>25 A. I don't know if some have been created since</p>
<p>Page 132</p> <p>1 this production. It would not surprise me if it had</p> <p>2 been.</p> <p>3 Q. Who would be responsible for that?</p> <p>4 A. Any of those people I just mentioned.</p> <p>5 Q. And if I wanted to find out where each one of</p> <p>6 these had gone, like the customer, potential customer who</p> <p>7 received this document in Exhibit 4, how would I go about</p> <p>8 doing that?</p> <p>9 A. I guess would you request it.</p> <p>10 Q. But other than asking each of the individual</p> <p>11 sales representatives, is that the only way I can find</p> <p>12 out where these landed?</p> <p>13 A. Yes.</p> <p>14 Q. And if I wanted to find out if there was ever a</p> <p>15 mass mailing of this document, is there any way to find</p> <p>16 out that other than for you to go check?</p> <p>17 A. You would have to ask them, the individual</p> <p>18 sales representatives.</p> <p>19 Q. Do the sales representatives, do they -- I</p> <p>20 think you said something about they would have to pay for</p> <p>21 it. How does that work?</p> <p>22 A. Just that, they would have to pay for it.</p> <p>23 Q. So they're responsible for their own marketing</p> <p>24 costs, is that correct?</p> <p>25 A. Yes.</p>	<p>Page 133</p> <p>1 Q. So you can provide them marketing collateral</p> <p>2 but it's really up to them to decide what kind of effort</p> <p>3 or money they want to put into getting it out to the</p> <p>4 world, is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Earlier I showed you a copy of your trademark</p> <p>7 application. I think you said that you would not be in a</p> <p>8 position to say whether or not any of the particular</p> <p>9 documents that were filed in the trademark proceeding,</p> <p>10 whether or not they were authentic and complete, that was</p> <p>11 your attorney's job I think is what you said, is that</p> <p>12 correct?</p> <p>13 A. I don't recall what I said. She would have a</p> <p>14 record of it (indicating).</p> <p>15 Q. Do you have Exhibit 1 in front of you?</p> <p>16 A. Is that it?</p> <p>17 Q. Exactly. Do you recognize this as one of the</p> <p>18 documents that's filed in the trademark application</p> <p>19 proceeding?</p> <p>20 A. I don't know. You said it was.</p> <p>21 Q. Well, I guess the broader question I have is as</p> <p>22 to the -- one thing that we have to do in this proceeding</p> <p>23 is authenticate the documents, just say these are true</p> <p>24 and accurate copies of things.</p> <p>25 Are you in a position to do that or should we</p>

<p style="text-align: right;">Page 134</p> <p>1 do that through your attorney?</p> <p>2 A. I would say you do it through the attorney. I</p> <p>3 can only take your word at it.</p> <p>4 Q. Sitting here today, you're not prepared to say</p> <p>5 whether that's the accurate copy or not?</p> <p>6 A. I don't know whether it is or not, I'd have</p> <p>7 to take your word for it. I believe it has his initials</p> <p>8 on it.</p> <p>9 Q. Just to go back to a question that I had about</p> <p>10 Exhibit No. 4, this brochure --</p> <p>11 A. We're back to the brochure now?</p> <p>12 Q. Exactly. Is there any reason to think that</p> <p>13 this document would not be offered in connection with</p> <p>14 Prudential products by any individual sales rep.</p> <p>15 A. I don't know know if I quite understand what</p> <p>16 you mean offered in connection with.</p> <p>17 Q. Let's say that a particular sales rep. for</p> <p>18 Dominion Investment Group is talking to a potential</p> <p>19 customer and wants to say we offer brokerage services for</p> <p>20 different insurance companies and also we offer diamond</p> <p>21 investment opportunities, is there any reason that</p> <p>22 wouldn't happen?</p> <p>23 A. If an agent in the field felt that a suitable</p> <p>24 allocation for that client was to have a part in a</p> <p>25 commodity, there would be nothing wrong to assume that.</p>	<p style="text-align: right;">Page 135</p> <p>1 Q. So if a particular customer said, hey, I'm</p> <p>2 looking at getting some life insurance but I'd also like</p> <p>3 to have some investments too, that's a pretty typical</p> <p>4 conversation that you might have with a customer to talk</p> <p>5 about all those different aspects?</p> <p>6 A. I wouldn't deem that to be typical.</p> <p>7 Q. What would be typical?</p> <p>8 A. Again, suitability for that particular</p> <p>9 client.</p> <p>10 Q. I guess in terms of generally speaking amongst</p> <p>11 all the sales representatives, whether they're</p> <p>12 independent contractors or whether they work for Dominion</p> <p>13 Investment Group, they would all have access to</p> <p>14 information about the insurance offerings of Dominion</p> <p>15 Investment Group but also would have information about</p> <p>16 the diamond offering?</p> <p>17 A. Accounting, tax, investment advisory trust,</p> <p>18 wealth advisory. The list goes on and on.</p> <p>19 Q. So the sales representatives can handle all of</p> <p>20 that?</p> <p>21 A. If they're properly appointed with each --</p> <p>22 well, those agencies, yes.</p> <p>23 Q. Have you ever looked at Prudential's website?</p> <p>24 A. I don't recall that I have.</p> <p>25 Q. Are you familiar with any of Prudential's</p>
<p style="text-align: right;">Page 136</p> <p>1 advertising?</p> <p>2 A. No.</p> <p>3 Q. I'm going to show you what's marked as Exhibit</p> <p>4 5.</p> <p>5 (Marked for identification as Opposer's</p> <p>6 Exhibit No. 5.)</p> <p>7 BY MR. BARNARD:</p> <p>8 Q. Do you recognize this document?</p> <p>9 A. Yeah, it looks like a photocopy of something.</p> <p>10 Q. Do you know what it is a photocopy of?</p> <p>11 A. It looks like it might be a photocopy of a web</p> <p>12 page.</p> <p>13 Q. This is the Dominion web page, isn't this?</p> <p>14 A. Dominion brokerage web page.</p> <p>15 Q. Tell me about Dominion Insurance Brokerage.</p> <p>16 A. It's a insurance brokerage.</p> <p>17 Q. And do they do brokerage services as just</p> <p>18 business to business or is it for individuals or both?</p> <p>19 A. They work from businesses to agents. They work</p> <p>20 from us to agents.</p> <p>21 Q. When you say from us to agents, can you explain</p> <p>22 that process?</p> <p>23 A. Dominion Insurance Brokerage works behind the</p> <p>24 scenes with the agent in the field.</p> <p>25 Q. And when you say agents, you mean agents of</p>	<p style="text-align: right;">Page 137</p> <p>1 these particular insurance companies that are identified</p> <p>2 on the front of Exhibit 5?</p> <p>3 A. No.</p> <p>4 Q. Who are the agents?</p> <p>5 A. Agents of Dominion Insurance Brokerage.</p> <p>6 Q. Is Dominion Insurance Brokerage a separate</p> <p>7 company?</p> <p>8 A. Yes.</p> <p>9 Q. Are the sales representatives for Dominion</p> <p>10 Insurance Brokerage, are they different than the sales</p> <p>11 representatives we we're talking about for Dominion</p> <p>12 Investment Group?</p> <p>13 A. They could be.</p> <p>14 Q. Is there overlap?</p> <p>15 A. There can be.</p> <p>16 Q. How much overlap is there?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you know if it's 50 percent?</p> <p>19 A. It would still be I don't know.</p> <p>20 Q. Do you dispute that Dominion, do you have any</p> <p>21 reason to doubt that Dominion Investment Group is working</p> <p>22 with Prudential?</p> <p>23 A. I would not dispute that we have the ability to</p> <p>24 work with Prudential as any other non-captive insurance</p> <p>25 company.</p>

<p style="text-align: right;">Page 138</p> <p>1 Q. Do you know who created this web page that's</p> <p>2 Exhibit 5?</p> <p>3 A. I don't.</p> <p>4 Q. Who is in charge of the web page for Dominion</p> <p>5 Investment Group?</p> <p>6 A. I would say collectively the partners.</p> <p>7 Q. Is there a specific individual though who is</p> <p>8 your web administrator either within your company or</p> <p>9 outside the company?</p> <p>10 A. Probably two people, the two people in</p> <p>11 marketing which I mentioned before would have</p> <p>12 executed it.</p> <p>13 Q. So Jessica and Elizabeth are in charge of</p> <p>14 this?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know whether any of these companies</p> <p>17 provided permission for their logos to be used here?</p> <p>18 A. I know that we work with an FMO and the FMO</p> <p>19 gave us permission to put that on there.</p> <p>20 Q. What is FMO?</p> <p>21 A. Field Marketing Organization.</p> <p>22 Q. Who is your -- is that one FMO that you work</p> <p>23 with?</p> <p>24 A. We have several.</p> <p>25 Q. Do you know who would be able to find out</p>	<p style="text-align: right;">Page 139</p> <p>1 whether any permission was granted to use Prudential's</p> <p>2 name on here?</p> <p>3 A. I don't know about Prudential but I know our</p> <p>4 field marketing organization would have had to have given</p> <p>5 it.</p> <p>6 Q. Who are the field marketing organizations that</p> <p>7 you've worked with?</p> <p>8 A. I don't know all of them to have the top of my</p> <p>9 head.</p> <p>10 Q. Doug Dunn is identified as one of the partners</p> <p>11 on here?</p> <p>12 A. Yes.</p> <p>13 Q. Is he one of the partners in Dominion</p> <p>14 Investment Group?</p> <p>15 A. Yes.</p> <p>16 Q. What is Mr. Dunn's role?</p> <p>17 A. To oversee the insurance brokerage.</p> <p>18 Q. Does he have any ownership interest in Dominion</p> <p>19 Diamonds?</p> <p>20 A. Not that I'm aware of.</p> <p>21 Q. Does he have any involvement with Dominion</p> <p>22 Diamonds?</p> <p>23 A. In running the company?</p> <p>24 Q. Just any involvement whatsoever, selling its</p> <p>25 products, advertising it, anything.</p>
<p style="text-align: right;">Page 140</p> <p>1 A. We're all associated with each other.</p> <p>2 Q. Would he have access to that brochure we were</p> <p>3 talking about that's been marked as Exhibit 4?</p> <p>4 A. Access meaning could he physically pick one up?</p> <p>5 Q. Yes, is this provided to him, is Exhibit No. 4</p> <p>6 provided to him and his people?</p> <p>7 A. I would assume so.</p> <p>8 Q. If you go through the through Exhibit 5 there's</p> <p>9 different pages that have other partners identified.</p> <p>10 Do you see on page three there's David Pope</p> <p>11 that's identified there?</p> <p>12 A. Yes.</p> <p>13 Q. And then if you keep going, Roger Hudspeth is</p> <p>14 identified on the page that says Dominion Personal</p> <p>15 Wealth.</p> <p>16 A. Okay.</p> <p>17 Q. Dominion Personal Wealth, is that a separate</p> <p>18 company or is that a division of Dominion Investment</p> <p>19 Group?</p> <p>20 A. It would be a separate company.</p> <p>21 Q. And what is Roger Hudspeth's role in the</p> <p>22 organization?</p> <p>23 A. In which organization?</p> <p>24 Q. If Dominion Investment Group.</p> <p>25 A. He's a partner.</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. Does he have any specialized role as to either</p> <p>2 the insurance business or as to the diamond part of the</p> <p>3 business?</p> <p>4 A. I don't understand what you mean by</p> <p>5 specialized.</p> <p>6 Q. I think you said earlier that Doug Dunn heads</p> <p>7 up the insurance brokerage part of the business.</p> <p>8 A. Correct.</p> <p>9 Q. Is there another person that heads up the</p> <p>10 diamond part of the business?</p> <p>11 A. Yes.</p> <p>12 Q. Who is that?</p> <p>13 A. That would be Catrina Davis.</p> <p>14 Q. Okay. And if one wanted to find out what kinds</p> <p>15 of information about Exhibit No. 4 were provided to Doug</p> <p>16 Dunn and his group, how would I go about doing that?</p> <p>17 A. Ask Doug Dunn.</p> <p>18 Q. Do you know what source of advertisement the</p> <p>19 insurance brokerage group has, what types of</p> <p>20 advertisement do they use?</p> <p>21 A. What do you mean what type?</p> <p>22 Q. Does the insurance brokerage side of the</p> <p>23 business, is their marketing different than what we were</p> <p>24 talking about earlier in terms of direct marketing and</p> <p>25 mail and just the different types of avenues?</p>

<p style="text-align: right;">Page 142</p> <p>1 A. They're only going to agents.</p> <p>2 Q. Only to agents?</p> <p>3 A. Correct.</p> <p>4 Q. Do they provide any kind of marketing</p> <p>5 collateral to the agents, brochures, documents?</p> <p>6 A. Sure.</p> <p>7 Q. Do you know whether they ever provided this</p> <p>8 Dominion Diamond document to agents?</p> <p>9 A. I'm not aware.</p> <p>10 Q. Do you know whether any of the agents that</p> <p>11 Dominion Insurance Brokerage works with, whether any of</p> <p>12 those agents also provide investment advice in addition</p> <p>13 to insurance agent type services?</p> <p>14 A. Are you saying do I know are there any?</p> <p>15 Q. Yes.</p> <p>16 A. Yes.</p> <p>17 Q. Is that pretty common for these insurance</p> <p>18 agents to also provide investment advice?</p> <p>19 A. No.</p> <p>20 Q. Is it -- do any of the insurance agents that</p> <p>21 Dominion Insurance Brokerage work with, do any of them</p> <p>22 provide investment services?</p> <p>23 A. What type of investment services?</p> <p>24 Q. Anything.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 143</p> <p>1 Q. In fact, it's fairly common for an individual</p> <p>2 agent to offer life insurance but then also other types</p> <p>3 of investment opportunities, such as equities,</p> <p>4 commodities?</p> <p>5 A. No.</p> <p>6 Q. Why is that not the case?</p> <p>7 A. You said is it commonplace, I'm telling you</p> <p>8 no.</p> <p>9 Q. Is it rare?</p> <p>10 A. I wouldn't say it's rare but it's not</p> <p>11 commonplace.</p> <p>12 Q. When you say it's not rare, do you know people</p> <p>13 that offer both sets of services?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Are some of those people in fact affiliated</p> <p>16 with the Dominion group of companies?</p> <p>17 A. That offer both services?</p> <p>18 Q. Yes.</p> <p>19 A. Yes, but they are the rarer.</p> <p>20 Q. Approximately how many people would offer</p> <p>21 both?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you think there's any likelihood of</p> <p>24 confusion here that people will see Rock Solid Investment</p> <p>25 and see Prudential information and be confused?</p>
<p style="text-align: right;">Page 144</p> <p>1 A. No.</p> <p>2 Q. Do you think it's important that investors</p> <p>3 understand which company that they're dealing with?</p> <p>4 A. If there was a confusion, I would definitely</p> <p>5 think it should be differentiated but never once has</p> <p>6 there been any confusion reported back to me or, to my</p> <p>7 knowledge, any agent in the field.</p> <p>8 Q. Understood. Do you agree it's important for</p> <p>9 people who are buying insurance or making investment</p> <p>10 decisions to know which company they're dealing with?</p> <p>11 A. I think it's important for anybody buying</p> <p>12 insurance to know you can never use the word investment</p> <p>13 to describe an insurance policy. As a matter of fact,</p> <p>14 not one insurance commissioner would allow you to use</p> <p>15 Rock Solid in combination with an insurance policy.</p> <p>16 Oh, and in securities, nowhere would any</p> <p>17 securities agency in these 50 states nor FINRA, as you</p> <p>18 see, allow a securitized under their regulation be</p> <p>19 defined as a rock solid.</p> <p>20 Q. Why is that?</p> <p>21 A. Because they wouldn't because you're making a</p> <p>22 conclusion and they wouldn't allow it.</p> <p>23 Q. Do you know whether typical Dominion Investment</p> <p>24 Group customers are aware of any of those regulations?</p> <p>25 A. I don't know what they're aware of. You would</p>	<p style="text-align: right;">Page 145</p> <p>1 need to ask them what they're aware of.</p> <p>2 Q. Going back to Exhibit 5, let's look for a</p> <p>3 second here at the Dominion Investment Group web page, on</p> <p>4 that second page.</p> <p>5 Is that supposed to be an image to represent</p> <p>6 this is a typical kind of customer?</p> <p>7 A. It's a stock photo.</p> <p>8 Q. I'm assuming that Dominion Investment Group is</p> <p>9 showing this to show people, hey, average, ordinary</p> <p>10 people who are planning their futures can rely on</p> <p>11 Dominion Investment Group to get advice about what to do.</p> <p>12 A. If you're going to describe that picture as</p> <p>13 somebody planning for the future, that would be a nice</p> <p>14 stock photo for that group which fits into planning for</p> <p>15 the future.</p> <p>16 Q. I guess what I'm asking is certainly there's a</p> <p>17 broad range of Dominion Investment Group potential</p> <p>18 customers including young families?</p> <p>19 A. And many others.</p> <p>20 Q. Do you agree with that statement that your</p> <p>21 typical customers would include young families?</p> <p>22 A. Typical, no.</p> <p>23 Q. Does it include -- do your customers include</p> <p>24 families?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 146</p> <p>1 Q. Could be young, could be old?</p> <p>2 A. Could be young, old, married, single, et</p> <p>3 cetera.</p> <p>4 Q. If these families are encountering Prudential's</p> <p>5 information in some instances and Rock Solid someplace</p> <p>6 else, if they see that, how are they supposed to know who</p> <p>7 they're dealing with?</p> <p>8 A. I think it's very easy.</p> <p>9 Q. How's that?</p> <p>10 A. There's no confusion.</p> <p>11 Q. Do you have anything to base that on other than</p> <p>12 just your opinion?</p> <p>13 A. Yeah. I would assume anyone that would do that</p> <p>14 would probably be an intellectually lazy person I</p> <p>15 wouldn't be doing business with.</p> <p>16 Q. Do you know how intellectually invested each of</p> <p>17 your customers are?</p> <p>18 A. Up to the standards of suitability which is</p> <p>19 what requires them to be able to do business with us.</p> <p>20 Q. What are the standards of suitability?</p> <p>21 A. What's suitable for that person. It's</p> <p>22 different for every person. What's suitable for you may</p> <p>23 not be suitable for me.</p> <p>24 Q. Is there any type of written policy in terms of</p> <p>25 a standard of suitability for the types of customers that</p>	<p style="text-align: right;">Page 147</p> <p>1 you target?</p> <p>2 A. No. In fact, some vendors -- and I'm sure</p> <p>3 Prudential has a suitability standard.</p> <p>4 Q. Does Dominion Investment Group or any of the</p> <p>5 Dominion companies, is there any kind of a written</p> <p>6 standard suitability for --</p> <p>7 A. It varies from person to person, circumstances</p> <p>8 to circumstance. Just because you walk in the room at</p> <p>9 your age and demographic and she walks in with the same</p> <p>10 age and demographic doesn't mean the suitability is the</p> <p>11 same.</p> <p>12 Q. Does that document that's shown in Exhibit A --</p> <p>13 I'm sorry, Exhibit No. 4, is it offered on-line</p> <p>14 anywhere?</p> <p>15 A. I don't know.</p> <p>16 Q. To the best of your knowledge it's either</p> <p>17 provided as a physical copy or on an e-mail?</p> <p>18 A. That's not the best of my knowledge. It may be</p> <p>19 on-line. Go on the website and check it out.</p> <p>20 Q. Again, I'm just asking what you know sitting</p> <p>21 here right now.</p> <p>22 A. I'm telling you that I over see 30 some or 40</p> <p>23 some companies and I can't tell you whether this document</p> <p>24 is available on-line or whether that document is</p> <p>25 available on-line specifically at this moment.</p>
<p style="text-align: right;">Page 148</p> <p>1 Q. To the best of your knowledge sitting here</p> <p>2 today, are you aware of any other ways that this</p> <p>3 document, Exhibit No. 4, was offered or was distributed</p> <p>4 other than through direct mail or by e-mail?</p> <p>5 A. Since it's a physical document, it would either</p> <p>6 have to be via mail, distribution by hand or digitally</p> <p>7 through e-mail or maybe a download. I don't know if it's</p> <p>8 on the website or not.</p> <p>9 Q. Do you agree or disagree with the following</p> <p>10 statement about Dominion Investment Group, we offer our</p> <p>11 clients a full range of financial services and support</p> <p>12 our clients nationwide by our network of over 200 brokers</p> <p>13 throughout the USA? Would you agree with that</p> <p>14 statement?</p> <p>15 A. It would probably be a fair statement.</p> <p>16 Q. Going back to Exhibit No. 4, the e-mail</p> <p>17 template that your wife uses, do you have any idea how</p> <p>18 many times that goes out a day?</p> <p>19 A. Every time she e-mails.</p> <p>20 Q. Who typically would she be e-mailing? Who are</p> <p>21 the people that she communicates with?</p> <p>22 For instance, is it just the layer right below</p> <p>23 her or does she communicate throughout the</p> <p>24 organization?</p> <p>25 A. Throughout the organization.</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. I'm going to ask you if you can identify some</p> <p>2 documents here.</p> <p>3 (Marked for identification as Opposer's</p> <p>4 Exhibit No. 6.)</p> <p>5 BY MR. BARNARD:</p> <p>6 Q. Do you recognize Exhibit 6?</p> <p>7 A. It looks like a printout, something off of</p> <p>8 Sunbiz.</p> <p>9 Q. There's some information on Exhibit 6 about</p> <p>10 your company. Can you please take a look at that and</p> <p>11 tell me if anything is wrong.</p> <p>12 A. Was there a question?</p> <p>13 Q. I just asked do you see any information there</p> <p>14 that's not accurate or no longer accurate.</p> <p>15 A. I don't know.</p> <p>16 Q. Does the information there that is on this</p> <p>17 appear to be correct?</p> <p>18 A. There may be more to this but at least it</p> <p>19 doesn't seem to be missing anything right this second.</p> <p>20 Q. So in terms of the authorized persons who are</p> <p>21 identified there and the addresses, that's all correct</p> <p>22 and up to date?</p> <p>23 A. I don't know if it's up to date.</p> <p>24 Q. How would you find that out?</p> <p>25 A. I guess I would ask some questions.</p>

<p style="text-align: right;">Page 150</p> <p>1 Q. Do you see anything there that you know is 2 wrong?</p> <p>3 A. I don't see anything that I know is wrong.</p> <p>4 Q. I'll show you what I'm marking as Exhibit 7. 5 (Marked for identification as Opposer's 6 Exhibit No. 7.)</p> <p>7 BY MR. BARNARD:</p> <p>8 Q. Is that your LinkedIn page?</p> <p>9 A. I guess it is.</p> <p>10 Q. Do you recognize that document or do you 11 recognize the information that's shown on that 12 document?</p> <p>13 A. I'm assuming it's my LinkedIn page.</p> <p>14 Q. Do you maintain your own LinkedIn page or is 15 that done by your marketing group?</p> <p>16 A. That was two questions, no.</p> <p>17 Q. No to both of them?</p> <p>18 A. It's no to the first one.</p> <p>19 Q. Does your marketing group -- did your marketing 20 group set up that LinkedIn page?</p> <p>21 A. They did set it up.</p> <p>22 Q. And do they maintain that?</p> <p>23 A. Yes.</p> <p>24 Q. Do you make posts on there on a regular 25 basis?</p>	<p style="text-align: right;">Page 151</p> <p>1 A. No.</p> <p>2 Q. If there are posts there, who does make 3 those?</p> <p>4 A. Marketing people.</p> <p>5 Q. And marketing people, would that be either 6 Jessica or Elizabeth?</p> <p>7 A. Yes.</p> <p>8 Q. Does one of them have particular duties as 9 to the LinkedIn pages?</p> <p>10 A. What do you mean by duties?</p> <p>11 Q. Do they both work on the LinkedIn pages or is 12 it just one of them?</p> <p>13 A. I think predominantly it's Jessica on mine but 14 they both do.</p> <p>15 (Marked for identification as Opposer's 16 Exhibit No. 8.)</p> <p>17 BY MR. BARNARD:</p> <p>18 Q. Do you recognize Exhibit 8?</p> <p>19 A. It appears to be a LinkedIn page.</p> <p>20 Q. Is that the LinkedIn page for Dominion 21 Investment Group?</p> <p>22 A. It appears to be.</p> <p>23 Q. Can you go to the third page there and do you 24 see where there's a little box around and an arrow 25 pointing to where it says Rock Solid investment?</p>
<p style="text-align: right;">Page 152</p> <p>1 A. Uh-huh.</p> <p>2 Q. Do you know who posted that?</p> <p>3 A. No.</p> <p>4 Q. The Dominion Investment Group LinkedIn pages, 5 is that also maintained by Jessica?</p> <p>6 A. Yes, and Elizabeth and anyone else who is 7 involved.</p> <p>8 Q. Do you recall applying for a trademark for 9 Investment Grade Diamond?</p> <p>10 A. We applied for something. I don't remember 11 exactly what it was.</p> <p>12 Q. Let me show you Exhibit 9 and ask if you can 13 identify that.</p> <p>14 (Marked for identification as Opposer's 15 Exhibit No. 9.)</p> <p>16 BY MR. BARNARD:</p> <p>17 Q. Does that refresh your recollection about 18 applying for Investment Grade Diamond?</p> <p>19 A. It would be a question for my attorney because 20 his name is all over it.</p> <p>21 Q. Do you have any recollection of thinking about 22 using Investment Grade Diamond at one point?</p> <p>23 A. It seems to me we did something like that.</p> <p>24 Q. Are you still using that, the name Investment 25 Grade Diamond?</p>	<p style="text-align: right;">Page 153</p> <p>1 A. Yes.</p> <p>2 Q. Where do you use that?</p> <p>3 A. Wherever we need to use it in the company.</p> <p>4 Q. Do you use it as a trademark?</p> <p>5 A. No.</p> <p>6 Q. Do you use it in marketing?</p> <p>7 A. Yes.</p> <p>8 Q. Does it appear in any sorts of brochures?</p> <p>9 A. It appears on that brochure that you already 10 handed me.</p> <p>11 Q. Can you find that for me?</p> <p>12 A. It's right there (indicating).</p> <p>13 Q. Okay, got it.</p> <p>14 A. It's probably all throughout it too.</p> <p>15 Q. Is Investment Grade Diamond ever used as a 16 company name or is that just to identify a product?</p> <p>17 A. I don't know. I believe at times they'll use 18 Dominion Investment Grade Diamonds. I don't know. It's 19 right there.</p> <p>20 Q. Got it. I'm sure you're aware of some 21 companies like Microsoft, that's a trademark but it's 22 also the name of the company.</p> <p>23 I guess the question I'm asking, did you ever 24 use Investment Grade Diamond has a trade name or is it 25 just a trademark you use for a particular product?</p>

<p style="text-align: right;">Page 154</p> <p>1 A. I don't understand the difference.</p> <p>2 Q. Sometimes trademarks can be used as the name of</p> <p>3 a company or to identify a company even if it has a</p> <p>4 different legal name, whereas most of the time trademarks</p> <p>5 are used just to identify particular products. I'm just</p> <p>6 asking --</p> <p>7 A. They may. I think the legal name of the</p> <p>8 company is something in the document we've already been</p> <p>9 through.</p> <p>10 Q. To the best of your knowledge is --</p> <p>11 A. You gave me a Sunbiz so whatever the legal name</p> <p>12 of the company is.</p> <p>13 Q. Understood. I'm just asking about marketing</p> <p>14 now.</p> <p>15 Is the name Rock Solid Investment, do you ever</p> <p>16 use that as a trade name for any of your companies as</p> <p>17 opposed to just identifying the products they sell?</p> <p>18 A. Rock Solid Investment, no.</p> <p>19 Q. What about Investment Grade Diamonds?</p> <p>20 A. It may be. I don't know. Rock Solid</p> <p>21 Investment was a trademark.</p> <p>22 (Marked for identification as Opposer's</p> <p>23 Exhibit No. 10.)</p> <p>24 BY MR. BARNARD:</p> <p>25 Q. Let me show you what I've marked as Exhibit 10.</p>	<p style="text-align: right;">Page 155</p> <p>1 Do you recognize Exhibit 10?</p> <p>2 A. It looks like some sort of form downloaded from</p> <p>3 a corporation commission website.</p> <p>4 Q. Does the information that you see there about</p> <p>5 your company, is that accurate?</p> <p>6 A. What do you mean what part is accurate?</p> <p>7 Q. Do you see underneath there -- you see at the</p> <p>8 top it's identified Dominion Investment Group, LLC?</p> <p>9 A. I do see that.</p> <p>10 Q. Below that you see yourself identified that</p> <p>11 also the registered agent.</p> <p>12 A. Yes.</p> <p>13 Q. Do you see any information there that is no</p> <p>14 longer accurate?</p> <p>15 A. I don't know what's not accurate.</p> <p>16 Q. Does this look like the correct information for</p> <p>17 Dominion Investment Group to the best of your</p> <p>18 knowledge?</p> <p>19 A. The address is correct. My name is spelled</p> <p>20 correct.</p> <p>21 Q. Do you see any information there that you think</p> <p>22 is inaccurate?</p> <p>23 A. I don't know.</p> <p>24 MR. TERRY: Would this be a good place to pause</p> <p>25 and take a break?</p>
<p style="text-align: right;">Page 156</p> <p>1 MR. BARNARD: Sure.</p> <p>2 MR. TERRY: I'll be back in two minutes.</p> <p>3 MR. BARNARD: I think we're pretty close to</p> <p>4 done here.</p> <p>5 (Thereupon, a short break was taken.)</p> <p>6 BY MR. BARNARD:</p> <p>7 Q. Earlier you said that you were not aware of</p> <p>8 there being any confusion to date between Rock Solid</p> <p>9 Investment and your companies you're using and</p> <p>10 Prudential, is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. What effort have you made to try to find out</p> <p>13 whether anybody has ever been confused between those two</p> <p>14 things?</p> <p>15 A. Nothing has been communicated to me. If there</p> <p>16 was a complaint in the field, it would rise to the</p> <p>17 occasion of coming to me or clients, and of all of the</p> <p>18 hundreds if not thousands of clients that we dealt with,</p> <p>19 not one complaint or even a comment of confusion has</p> <p>20 occurred.</p> <p>21 Q. Have you asked specifically or sent out any</p> <p>22 kind of communication to the people in the field as to</p> <p>23 whether or not there's been any confusion?</p> <p>24 A. I have.</p> <p>25 Q. What was that communication?</p>	<p style="text-align: right;">Page 157</p> <p>1 A. I verbally asked people not long after your</p> <p>2 letter came in to my counsel.</p> <p>3 Q. Who did you ask?</p> <p>4 A. Multiple people on my teams, partners, et</p> <p>5 cetera.</p> <p>6 Q. Roughly how many people?</p> <p>7 A. 40, 60.</p> <p>8 Q. Did you give them any kind of instructions?</p> <p>9 A. Instructions? I wasn't instructing them to do</p> <p>10 anything, I was asking them questions.</p> <p>11 Q. Did you ask them to ask the people that they</p> <p>12 work with the same question?</p> <p>13 A. I asked them were there questions raised of any</p> <p>14 confusion.</p> <p>15 Q. Did you ask them to ask the other people that</p> <p>16 they work with the same thing though, to find out whether</p> <p>17 there had been any confusion?</p> <p>18 A. I asked them if they were aware of any. If</p> <p>19 there was any in their office, they could have come back</p> <p>20 and reported it to me.</p> <p>21 Q. My question was a little different than that</p> <p>22 though. I understand that you asked them whether any</p> <p>23 confusion had happened. What I'm asking is did you give</p> <p>24 them any instructions to do things going forward in terms</p> <p>25 of finding out --</p>

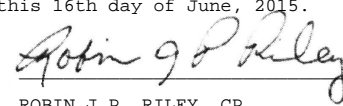
<p style="text-align: right;">Page 158</p> <p>1 A. To report to me or anybody in management if 2 there's been any confusion of which there has been 3 none. 4 Q. Was there any e-mail or any kind of a written 5 communication that was sent out regarding this issue? 6 A. I don't recall anything being written. 7 Q. You don't remember writing any kind of an 8 instruction to anybody or question to any of the people 9 in -- 10 A. No, I try to communicate verbally as much as I 11 can with my people. 12 Q. You said that it would be -- is there any kind 13 of a policy in terms of if somebody was going to be 14 encountering that kind of an issue in the field about 15 reporting it up to management? 16 A. I don't understand the question. 17 Q. Are there any sorts of, let's say that you have 18 consumers who are confused between two products that are 19 being offered, how would that normally be dealt with? 20 A. Depending on what the confusion was, it would 21 typically be reported up the chain. 22 Q. Is there any kind of a written policy that 23 addresses that situation? 24 A. No. 25 MR. BARNARD: I'm going to adjourn the</p>	<p style="text-align: right;">Page 159</p> <p>1 deposition right now. There are some of these 2 questions that I didn't get a lot of information on 3 but I'm hopeful that we will be able to get that by 4 working together to get through some of them. 5 Obviously I can't anticipate every question I'm 6 going to ask but I'm just going to adjourn this for 7 now unless you have any questions. 8 MR. TERRY: No. 9 MR. BARNARD: I'll order. 10 THE COURT REPORTER: Would you like a copy? 11 MR. TERRY: Yes, definitely, PDF. 12 (Thereupon, the deposition concluded 13 at 12:55 p.m.) 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 160</p> <p>1 CERTIFICATE OF OATH 2 3 STATE OF FLORIDA) 4 : SS 5 COUNTY OF ST. LUCIE) 6 7 I, ROBIN J.P. RILEY, a Notary Public of the 8 State of Florida at Large, authorized to administer 9 oaths, certify that Daryl Bank appeared before me and was 10 duly sworn on June 8, 2015. 11 WITNESS my hand and official seal this 12 16th day of June, 2015. 13 14 15 ROBIN J.P. RILEY, CP 16 My Commission Expires: (Notary Seal) May 9th, 2016 (This signature is valid only if signed in blue ink.) 17 18 Personally Known_____ 19 Or Produced Identification__X_ 20 Type of Identification Produced - driver's 21 license 22 23 24 25</p>	<p style="text-align: right;">Page 161</p> <p>1 STATE OF FLORIDA) 2 COUNTY OF ST. LUCIE) 3 4 CERTIFICATE 5 I, ROBIN J.P. RILEY, a Shorthand Reporter and 6 Notary Public of the State of Florida at Large, certify 7 that the foregoing deposition of Daryl Bank was 8 stenographically reported by me and is a true and 9 accurate transcription of said deposition of Daryl Bank. 10 I certify further I am neither attorney nor 11 counsel for, nor related to, nor employed by any of the 12 parties to the action in which the deposition is taken 13 and, further, that I am not a relative or an employee of 14 any attorney or counsel employed in this case, nor am I 15 financially interested in the outcome of this action. 16 DATED this 16th day of June, 2015. 17 18  19 ROBIN J.P. RILEY, CP 20 21 22 23 24 25</p>

EXHIBIT T

1 Q. Did you do any search of your e-mails to answer
2 any of the questions that were asked here?

3 A. I did whatever was asked of me.

4 Q. Specifically on Exhibit 3 in terms of answering
5 these questions that are in Exhibit 3, do you recall
6 doing any searches of electronic documents?

7 A. I did whatever the questions asked me to do and
8 counsel directed me to do.

9 Q. I'm not asking you what instructions you think
10 you were following I'm asking you did you do a search?

11 A. If that was the instructions in there, then I
12 must have.

13 Q. You must have but you don't recall specifically
14 doing a search?

15 A. I do a lot of things every day.

16 Q. My question is do you have any specific
17 recollection of doing any searches of electronic
18 documents to answer any of the questions that were
19 posed --

20 A. If it was asked --

21 Q. You have to let me finish because she --

22 A. She can plug it in at the end when you get
23 done.

24 Q. I'm trying to make her job easier. The whole
25 purpose of this proceeding is so that somebody can read

1 Q. I'm asking you. I'm telling you I'm assuming
2 that there are documents back and forth. Roughly how
3 many documents are we talking about?

4 A. You're asking how many documents there are
5 between me and my attorney?

6 Q. That involve the Rock Solid Investment issue.

7 A. Involving this issue why we're here today?

8 Q. Exactly.

9 A. I would have no idea how voluminous that may
10 be.

11 Q. Do you remember searching through that
12 though?

13 A. I recall engaging counsel to put together the
14 application.

15 Q. Let's talk about something a little more
16 specific. If you go to number ten, there's a request
17 that that asks for documents relating to or disclosing
18 the manner in which you distribute promotional materials
19 that advertise or promote the services stated in the
20 services description of the application for Rock Solid
21 Investment mark, and it says there's an objection there
22 that it seeks confidential and proprietary information,
23 do you see that?

24 A. I see it.

25 Q. Are there any confidential, promotional

1 materials that Dominion Diamonds distributes?

2 A. What's confidential?

3 Q. Exactly.

4 A. I'm asking you. You asked me the question so
5 what do you mean by it?

6 Q. It's in your response so I'm asking does
7 Dominion Diamonds distribute any confidential advertising
8 materials?

9 A. You're asking to get into my proprietary
10 information, so with respect to your question, yes it
11 does.

12 Q. I didn't ask about proprietary information, I
13 asked about confidential.

14 A. It is confidential.

15 Q. Let's talk about both of those things.
16 Confidential is secret, proprietary means you own it.

17 A. That's your definition.

18 Q. Let's talk about the secret stuff. Do you have
19 any secret advertising materials?

20 A. I have confidential material that's none of
21 your business, does that help?

22 Q. Do you have advertisement materials that are
23 confidential?

24 A. Again, my definition of meaning that it's not
25 something that's of the Prudential's business, yes. If

1 A. I would say yes because I do.

2 Q. Okay. In terms of investment opportunities, is
3 it a regular practice, as far as you're aware, for people
4 to offer those to potential customers in any state that
5 they want to?

6 A. Offer what?

7 Q. For the Dominion group of companies.

8 A. Offer what across the state?

9 Q. In terms of the these people who are all in the
10 company in the sales force, are they restricted to only
11 selling in their state or can they sell or offer
12 different kinds of services or products to people in
13 other states?

14 A. Which service are you referring to?

15 Q. Any services.

16 A. That would depend on the regulatory
17 requirements on them.

18 Q. Do you know as to any of the services, are they
19 being offered across state lines?

20 A. Which services?

21 Q. Again, any of them.

22 A. It would be correct to assume they are.

23 Q. Now in Exhibit No. 3 there are several of these
24 exhibits that say the request is overbroad, unduly
25 burdensome.

1 What burdens were did you encounter in trying

2 to --

3 A. What do you want me to look at?

4 Q. It's several of these.

5 A. Can you narrow it down?

6 Q. I'm going to ask you generally first and then

7 we can look at specific but generally speaking there are

8 requests in here that said the requests are overbroad and

9 unduly burdensome.

10 What burdens did you run into in terms of

11 answering these questions?

12 A. These were generally overburdensome.

13 Q. How so?

14 A. You want me to get specific?

15 Q. Yes.

16 A. You asked me a general question so I generally

17 answered it. It's generally overburdensome.

18 Q. For example, were there any of these requests

19 that generated more than 1,000 documents when you tried

20 to go search for something?

21 A. Which one are you talking about?

22 Q. I'm asking for any of them.

23 A. Generally, it was overburdensome.

24 Q. My question was were there any of these

25 requests that we made where you found that there were